

ANNUAL REPORT
OF THE
FEDERAL
TRADE COMMISSION
FOR THE
FISCAL YEAR ENDED JUNE 30
1936

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1936

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FEDERAL TRADE COMMISSION

Charles H. March, *Chairman*¹
William A. Ayres, *Vice Chairman*
Garland S. Ferguson, Jr.
Ewin L. Davis
Robert E Freer
Otis B. Johnson, *Secretary*

FEDERAL TRADE COMMISSIONERS--1915-36

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar.16, 1915-Mar. 18, 1918.
Edward N. Hurley	Illinois	Mar.16, 1915-Jan. 31, 1917.
William J. Harris	Georgia	Mar.16, 1915-May 31, 1918.
Will H. Parry	Washington	Mar.16, 1915-Apr. 21, 1917.
George Rublee	New Hampshire	Mar.16, 1915-May 14, 1916.
William B. Colver	Minnesota	Mar.16, 1917-Sept. 25, 1920.
John Franklin Fort	New Jersey	Mar. 16, 1917-Nov. 30,1919.
Victor Murdock	Kansas	Sept. 4, 1917-Jan. 31, 1924.
Huston Thompson	Colorado	Jan. 17, 1919-Sept. 25, 1926.
Nelson B. Gaskill	New Jersey	Feb. 1, 1921-Feb. 24, 1925.
John Garland Pollard	Virginia	Mar. 6, 1920-Sept. 25, 1921.
John F. Nugent	Idaho	Jan.15, 1921-Sept. 25, 1927.
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926.
Charles W. Hunt	Iowa	June 16, 1924-Sept. 25,1932.
William E. Humphrey	Washington	Feb.25, 1925-Oct. 7, 1933.
Abram F. Myers	Iowa	Aug. 2, 1925-Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb.11, 1927-Jan. 23, 1933.
Garland S. Ferguson	North Carolina	Nov.14, 1927,
Charles H. March	Minnesota	Feb. 1, 1929.
Ewin L. Davis	Tennessee	May 26,1933.
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25, 1933.
James M. Landis	Massachusetts	Oct.10, 1933-June 30, 1934.
George C. Mathews	Wisconsin	Oct.27, 1933-June 30,1934.
William A. Ayres	Kansas	Aug. 23,1934.
Robert E. Freer	Ohio	Aug.27, 1935.

EXECUTIVE OFFICES OF THE COMMISSION

815 Connecticut Avenue NW.,
Washington, D. C.

BRANCH OFFICES

45 Broadway, New York
433 West Van Buren Street, Chicago
Seattle

544 Federal Office Building, San Francisco
801 Federal Building,

¹ Chairmanship rotates annually. Commissioner Ayres will become chairman in January 1938.

LETTER OF SUBMITTAL

To the Congress of the United States:

I have the honor to submit herewith the Twenty-second Annual Report of the Federal Trade Commission for the fiscal year ending June 30, 1936.

By direction of the Commission:

CHARLES H. MARCH, *Chairman*

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INTRODUCTION

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RECOMMENDATIONS

ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

INTRODUCTION

POWERS AND DUTIES OF THE COMMISSION

The Federal Trade Commission herewith submits its report for the fiscal year 1935-36. Organized March 16, 1915, under the Federal Trade Commission Act, approved September 26, 1914, the Commission is an administrative body exercising quasi-judicial functions. These functions are chiefly, (1) to prevent unfair methods of competition in interstate commerce; (2) to make investigations at the direction of Congress, the President, the Attorney General, or upon its own initiative; (3) to report facts in regard to alleged violations of the antitrust laws; (4) to prevent price discriminations, exclusive dealing contracts, capital stock acquisitions, and interlocking directorates in violation of the Clayton Act; and (5) to prevent unfair methods of competition in export trade in violation of the Federal Trade Commission Act as extended by the Webb-Pomerene Act (Export Trade Act).

During the fiscal year, the Commission's statutory authority was broadened by the passage by the Congress, at its last session, of the Robinson-Patman Borah-Van Nuys Act, Public, No. 692, approved June 19, 1936, amending section 2 of the Clayton Act making price discriminations unlawful.

Under the Federal Trade Commission Act ¹ the duties of the Commission are divided into two broad classes, legal and economic.

Legal activities have largely to do with the prevention and correction of unfair methods of competition in accordance with section 5 of the Commission's organic act, in which it is declared that "unfair methods of competition in commerce are hereby declared unlawful." This phrase is not further defined in the act. In the first case in which the Supreme Court had occasion to consider this language, namely, that of *F. T. C. v. Gratz* (253 U. S. 421), the Court associated with the phrase those practices "opposed to good morals be-

¹ Copies of the Federal Trade Commission Act, Sherman Act, Clayton Act, Robinson Patman Borah-Van Nuys Act, and Export Trade Act may be obtained on application to the Federal Trade Commission or Government Printing Office, Washington, D. C. Texts of these acts also appear beginning at p.135 of this report.

cause characterized by deception, bad faith, fraud, or oppression, or as against public policy because of their dangerous tendency unduly to hinder competition or create monopoly.” In a later case, in which it had occasion to consider the phrase (*F. T. C. v. R. F. Keppel Bro., Inc.*, 291 U. S. 304), the Supreme Court upheld, as involving an unfair method of competition, the Commission’s order prohibiting the sale of candies largely for ultimate resale through schemes of chance. The Court pointed out that in defining the powers of the Commission Congress advisedly adopted this phrase, “which, as this Court has said, does not admit of precise definition, but the meaning and application of which must be arrived at by what this Court elsewhere has called ‘the gradual process of judicial inclusion and exclusion.’”²

In another decision (*A. L. A. Schechter Poultry Corp. et al. v. United States*, 295 U. S. 495), the Supreme Court said: “* * * What are ‘unfair methods of competition’ are thus to be determined in particular instances, upon evidence, in the light of particular competitive conditions, and of what is found to be a specific and substantial public interest. * * *”

In this general connection, it should be noted that under the provisions of section 5 of the Federal Trade Commission Act the Commission is to proceed only if it appears to it that the particular proceeding would be “to the interest of the public.” It accordingly does not concern itself with purely private competitive controversies which have no public significance.

Legal activities of the Commission, besides enforcement of its organic act, include administration of section 2 of the Clayton Act, dealing with unlawful price discriminations, as amended by the Robinson-Patman Borah-Van Nuys Act, and sections 3, 7, and 8 of the Clayton Act dealing, respectively, with unlawful “tying” contracts, unlawful stock acquisitions, and unlawful interlocking directorates

The Webb-Pomerene, or Export Trade Act, also administered by the Commission, has for its purpose the promotion of export trade. It exempts from the provisions of the antitrust laws associations of American exporters engaged solely in export trade.

The economic work of the Commission arises chiefly under section 6 (a), (b), and (d) of the organic act giving the Commission power--

(a) To gather and compile information concerning, and to investigate, from time to time, the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers, * * * and its relation to other corporations and to individuals, associations, and partnerships.

² Typical methods of competition condemned by the Commission as unfair are described on p. 64.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the act to regulate commerce, * * * to file with the Commission in such form as the Commission may prescribe annual or special, or both annual an special, report or answers in writing to specific questions, furnishing to the Commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. * * *

(d) Upon the direction of the President or either House of Congress ³ to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.

Also under section 6 (h) of the Federal Trade Commission Act, the Commission has power--

to investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

GENERAL LEGAL ACTIVITIES

Under authority of the Federal Trade Commission Act and those sections of the Clayton Act which it administers, the Commission, during the last fiscal year, has continued to direct its efforts toward the correction and elimination of unfair methods of competition and other unlawful practices.

It made preliminary investigations in 1,827 individual cases initiated under these acts as compared with 1695 during the last pre-ceding year, and approved a total of 890 stipulations, of which 555 were of a special class in which false and misleading advertising in newspapers, magazines, or by radio broadcasts, was the principal practice involved. This was an increase of more than 100 percent over the total of 431 stipulations negotiated in the last preceding fiscal year.

The stipulation procedure is usually employed in cases where the methods of competition complained of are not so fraudulent or vicious that protection of the public interest requires the procedure of formal complaint and issuance of a cease and desist order, as the stipulation procedure provides an opportunity for the prospective respondent to enter into a written agreement to cease and desist from the unfair methods set forth therein.

During the last fiscal year, the Commission issued 386 complaints against companies and individuals, alleging various forms of unfair

³ Public, No. 78, 73d Cong., approved June 16, 1933, making appropriations for the fiscal year ending June 30.1934, for the "Executive office and sundry independent executive Bureaus, Boards. Commissions", etc.. made the appropriation for the Commission contingent upon the provision (48 Stat. 291, 15 U. S. C. A., sec. 46a) that "hereafter no new investigations shall be initiated by the Commission as the result of a legislative resolution, except the same be a concurrent resolution of the two Houses of Congress."

competition or other practices, as compared with 280 issued during the last preceding year. In 161 cases, the Commission served upon respondents its orders to cease and desist from unfair practices which had been alleged in complaints and which were found to have been engaged in by the respondents, as compared with 126 issued during the last preceding year. Representative cases are described at pages 51 and 57.

During the year, the Commission was sustained in 15 cases before the various United States circuit courts of appeals, and was reversed in none. In the United States Supreme Court, there were no decisions on the merits in pending Commission cases, but that Court denied petitions for writs of certiorari applied for by three petitioners who had been unsuccessful in their attempts in circuit courts of appeals to nullify Commission orders to cease and desist.

A number of American associations engaged solely in export trade filed with the Commission statements provided for by the Webb-Pomerene law or Export Trade Act and thereby became entitled to the benefits and exemptions provided by that act. These are discussed elsewhere in this report.

For handling a special procedure in certain types of false and mis-leading advertising cases, the Commission has a special board of investigation consisting of three attorneys. Through this special board, the Commission examines the advertising columns of newspapers and magazines and commercial advertising continuities broadcast by radio, noting any misleading representations appearing in this material. Complaints against advertisers are also received from the public and are given careful consideration. Misleading representations in advertising are often corrected through the advertiser's agreement by stipulation to cease and desist from such misrepresentations, although some of the cases before this board result in the issuance of formal complaints and orders to cease and desist.

TRADE PRACTICE CONFERENCES

An important phase of the Commission's activities during the last year has been its trade practice conference work. This work was instituted in 1919. By 1926, it had grown to such importance that the Commission established what is now known as the Division of Trade Practice Conferences.

The Commission's trade-practice conference procedure affords a means by which members of trade and industry may voluntarily cooperate in the establishment of a code of fair-trade practices for the wholesale elimination of unfair methods of competition, trade abuses, and evils from trade and industry. This function is per-

formed under authority of the Federal Trade Commission Act under which the Commission is

empowered and directed to prevent persons, partnerships, or corporations, except banks and common carriers subject *to the* acts to regulate commerce, from using unfair methods of competition in commerce.

Since the inauguration of this work, trade-practice proceedings for more than 170 industries have been instituted for the establishment of rules under the sponsorship of the Commission. These industries are of varied character, the membership ranging from a few hundred to many thousand.

GENERAL INVESTIGATIONS

Under authority of section 6 of the Federal Trade Commission Act, the Commission may gather information concerning corporations and investigate their organization and operations and may, at the request of the President, the Congress, the Attorney General, or upon its own initiative, conduct general investigations of alleged violations of the antitrust laws. It also may make reports in aid of legislation.

More than 100 general inquiries or studies have been conducted during the commission's existence, most of them in pursuance of Congressional resolutions, although many have been conducted pursuant to Presidential orders and others on the commission's initiative.⁴ It may be said that these inquiries have supplied *not* only valuable information bearing on conditions, developments, and trends in interstate trade and industrial development, but have thrown light on the need for and wisdom of legislation for corrective action. The public need for such fact-finding studies in this increasingly complex economic era grows greater, irrespective of different economic and political philosophies.

The status of each investigation in progress at the close of the fiscal year is described as follows:

Milk and dairy products.--During the fiscal year, the commission continued its investigation into conditions with respect to the sale and distribution of milk and other dairy products, under authority of 'louse Concurrent Resolution 32, Seventy-third Congress, second session, adopted June 15, 1934. During the year it transmitted to Congress the following reports: Sale and Distribution of Milk and Milk Products, being a supplemental study of the Connecticut and Philadelphia milkshed; Sale and Distribution of Milk and Milk Products, Chicago Sales Area; Milk Market Regulation and Practices of Distributors in Relation to Margins, Costs and Profits of

⁴ A list of these investigations, and brief descriptions, begin at p.157.

Distributors in Boston, Baltimore, Cincinnati, and St. Louis; and Sale and Distribution of Milk and Milk Products, Twin Cities Area (Minneapolis and St. Paul).

Agricultural income.- Public Resolution No. 61, Seventy-fourth Congress, first session, approved August 27, 1935, directed the Commission to investigate and report to Congress concerning the extent of the decline in agricultural income in recent years; the extent of increases or decreases in the income of principal corporations engaged in the sale, manufacture, warehousing, and processing of principal farm products; the proportion of total consumer cost of representative farm products, represented by profits to the farmers, manufacturers, processors, warehousemen and distributors of such products, and other facts. Seven principal farm commodities were chosen for investigation as comprising the leading sources of agricultural income; namely, dairy products, cotton, wheat, cattle, hogs, tobacco, and potatoes. An interim report was filed by the commission January 1, 1936. A resolution adopted by the Congress at its last session directed an investigation of table and juice grapes and fresh fruits and vegetables, an interim report on these commodities to be filed on or before January 31, 1937, and a final report not later than May 31, 1937.

Farm implements and machinery.- Investigation of corporations engaged in manufacturing, selling, or distributing agricultural implements and machinery was undertaken by the Commission at the close of the fiscal year in response to Public Resolution No. 130, Seventy fourth Congress, approved June 24, 1936. Under this resolution, the Commission will seek to determine "whether any corporation engaged in the manufacture, sale, or distribution of agricultural implements and machinery, of whatever kind and description is, or within the past 3 years has been, violating any of the antitrust acts of the United States, and the nature, extent, and effects of any such violation." Other information requested under the resolution relates specifically to possible price fixing, monopoly, and concentration of ownership or control; costs, prices, and profits of manufacturers and other subjects.

Collusive bids on steel-sheet piling.-At the direction of the President, the Commission investigated the circumstances under which producers of steel-sheet piling had submitted identical bids on construction projects financed with Federal funds in New York City, Miami, Fla., and Morehead City, N . C. A description of the Commission's report is presented on page 30.

Textile industries.-As a result of this investigation, undertaken pursuant to Executive order of September 26, 1934, the Commission has issued reports relative to labor costs, rates of return, and invest-

ments of companies and establishments in the cotton, woolen and worsted, silk and rayon, and the thread, cordage, and twine industries.

Electric and gas utilities.--This investigation, conducted under Senate Resolution No. 83, Seventieth Congress, first session, was completed as of December 31, 1935, and final reports have been submitted on the financial operations of electric power utilities, publicity and propaganda activities of the utility industries, and on financial phases of the natural-gas and pipe-line industries, with conclusions and recommendations in each instance. The inquiry embraced examination of 29 holding companies, 70 subholding companies, and 278 operating companies having combined total assets of \$19,038,698,378. Testimony and reports, including final summary reports, comprise 94 printed volumes.

Petroleum decree investigation.--At the close of the fiscal year, the Commission was conducting an investigation to determine the manner in which a consent decree entered in the case of the Government against certain Pacific coast oil companies has been observed. This investigation was requested by the Attorney General and is being conducted pursuant to duty imposed upon and power granted to the Commission under section 6 (c) of the Federal Trade Commission Act.

Price bases-range-boiler industry.--The Commission, on March 30, 1936, transmitted to Congress a report of its study of the zone-price formula in the range-boiler industry. This was one of a series of studies made by the Commission in its price-bases inquiry to ascertain the part that transportation charges play in the making of delivered and shipping-point prices. The study disclosed that the basing-point principle is involved in the making of prices in the range-boiler industry.

THE COMMISSIONERS AND THEIR DUTIES

The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate. Not more than three of the Commissioners may belong to the same political party.

The term of office of a Commissioner is 7 years, as provided in the Federal Trade Commission Act. The term of a Commissioner dates from the 26th of September last preceding his appointment (September 26 marking the anniversary of the approval of the act in 1914), except when he succeeds a Commissioner who relinquishes office prior to expiration of his term, in which case, under the act, the new member "shall be appointed only for the unexpired term of the Commissioner whom he shall succeed."

At the close of the fiscal year, June 30, 1936, the Commission was composed of the following members: Charles H. March, Republican,

of Minnesota, chairman; William A. Ayres, Democrat, of Kansas, vice-chairman; Garland S. Ferguson, Jr., Democrat, of North Carolina; Ewin L. Davis, Democrat, of Tennessee; and Robert E. Freer, Republican, of Ohio. Commissioner Freer was appointed to office August 24, 1935.

Each January the Commission designates one of its members to serve as chairman during the ensuing calendar year. Commissioner March was chosen chairman for the calendar year 1936, succeeding Commissioner Davis. The chairmanship rotates, so that each Commissioner serves as chairman at least once during his term of office. The chairman presides at meetings of the Commission, supervises its activities, and signs the more important official papers and reports at the direction of the Commission. The chairman of the Commission is a member of the National Emergency Council.

In addition to the general duties of the Commissioners, in administering the statutes, the enforcement of which is committed to the commission, each Commissioner has supervisory charge of a division of the Commission's work. Chairman March has supervisory charge of the chief examiner's division; Commissioner Ayres of the administrative division; Commissioner Ferguson of the chief trial examiner's division and the trade practice conference division; Commissioner Davis of the chief counsel's division and the special board of investigation; and Commissioner Freer of the economic division. Every case that is to come before the Commission is first examined by a Commissioner and then reported on to the Commission, but all matters under the jurisdiction of the Commission are acted upon by the Commission as a whole.

The Commission meets regularly for the transaction of business every business day at its offices in Washington. The Commissioners hear final arguments in the cases before the Commission, as well as arguments on motions of counsel for the Commission or respondents.

The Commissioners usually preside individually at trade-practice conferences held for industries in various parts of the country, and also have numerous administrative duties incident to their position.

The secretary of the Commission is its administrative officer.

At the close of the fiscal year the Commission had a total personnel of 571, including the Commissioners.

HOW THE COMMISSION'S WORK IS HANDLED

The work of the Federal Trade Commission may be divided broadly into the following general groups: Legal, economic, and administrative.

The legal work of the Commission is under the direction of the chief counsel, the chief examiner, and the chief trial examiner.

The chief counsel acts as legal adviser to the Commission, and has charge of legal proceedings against respondents charged with unfair methods of competition as prohibited by the Federal Trade Commission Act, with acts or practices in violation of the Clayton Act and with violations of the Federal Trade Commission Act as extended by the Webb-Pomerene Act, and has charge of the trial of cases before the Commission and in the courts.

The chief examiner has charge of legal investigations of applications for complaint alleging violations of the laws over which the Commission has jurisdiction. When the Commission undertakes investigations in response to congressional resolutions, or under section 6 of the Federal Trade Commission Act, the chief examiner supervises such parts of such investigations as may be assigned to his division by the Commission.

Members of the chief trial examiner's division are appointed to preside at the trial of formal complaints and at the taking of testimony in investigations conducted by Executive direction, pursuant to congressional resolutions, upon the Commission's own initiative, or at the request of the Attorney General of the United States. They also arrange settlement by stipulation of applications for complaint, subject to approval of the Commission.

There are also the division of trade practice conferences, the special board of investigation for cases involving false and misleading advertising, and the export-trade section of the chief counsel's division for handling foreign trade work under the Export Trade Act and section 6 (h) of the Federal Trade Commission Act.

The economic division, under the chief economist, conducts certain of the general inquiries of the Commission. This division conducted that part of the electric and gas utility inquiry which dealt with the financial structure, organization, and management of the utilities, although the chief counsel's division conducted the public hearings and had charge of the investigation of utility propaganda. The investigation of the textile industry has been under the direction of the economic division. The milk investigation and the agricultural income inquiry have been conducted by the chief examiner's division and the economic division, jointly. The public hearings held in the milk investigation were conducted by the chief counsel's division before a Commission trial examiner.

Responsible directly to the assistant secretary of the Commission, the administrative division conducts the business affairs of the Commission and is made up of units such as are usually found in Government establishments, the functions of such units being covered largely by general statutes. These units are as follows: Accounts and per

sonnel, disbursing office, docket section, publications, library, mails and files , supplies, stenographic, and hospital.

The Commission has a public relations and editorial service for the distribution of information, for the preparation and editing of reports, and the answering of inquiries relative to the Commission's work. This division is under the supervision of the assistant to the chairman.

THE ROBINSON-PATMAN BORAH-VAN NUYS ACT

The Robinson-Patman Borah-Van Nuys Act, Public, No.692, was signed by the President on June 19, 1936.

The Robinson-Patman bill, as originally introduced, amended Section 2 of the Clayton Act, defining unlawful price discriminations and supplemented the section by declaring certain other forms of discrimination to be unlawful. The Borah-Van Nuys bill was directed toward making certain price discriminations a criminal offense.

Both bills were designed to prevent arbitrary discrimination in the course of interstate commerce as a result of which sellers conferred substantial competitive advantages upon some customers and not upon others, or as sometimes stated, to restore equality of opportunity in business without penalizing service and efficiency. As finally passed the act is a consolidation of the provisions of the various bills introduced in Congress by Senator Robinson, Representative Patman, Senators Borah, Van Nuys, and others.

A comparison of the principal provisions of the amended section and of the section as it had stood since its original enactment in 1914, is presented in the following parallel columns. This comparison will show the principal points of difference between the old and the new law.

ORIGINAL SECTION 2

Declares it unlawful to discriminate in price in the course of interstate commerce between different purchasers of commodities sold for use, consumption, or resale within the United States, subject to the following requirements:

(a) That the effect "may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

AMENDED SECTION 2

NOTE.--New Language in italics.)

Declares it unlawful to discriminate in price in the course of interstate commerce between different purchasers of "*like grade and quality, where either or any of the purchases*" are made in the course of interstate commerce and where the commodities are sold for use, consumption, or resale within the United States or its possessions, subject to the following requirements

(a) That the effect "may be substantially to lessen competition or tend to create a monopoly in any line of commerce, *or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with*

customers of either of them.”

THE ROBINSON-PATMAN BORAH-VAN NUYS ACT 13

ORIGINAL SECTION 2

(b) That the discrimination be not "on account of differences in the grade, quality, or quantity of the commodity sold" or make other than "due allowance for difference in the cost of selling or transportation."

(c) That the discrimination "in the same or different communities" be not "in good faith to meet competition."

(d) That the discrimination be not the result of the seller's selection of customers "in bona fide transactions and not in restraint of trade."

(e) Nothing equivalent to (e) in the other column appears in the original section.

An important provision which qualifies (b) in the second column above is that where the Federal Trade Commission finds "that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce" it "may, after due investigation and hearing to all interested parties, fix and establish quantity limits and revise the same as it finds necessary, as to particular commodities or classes of commodities." Thereafter in such cases differentials based on differences in quantities greater than those so fixed and established are not permissible.

The new act includes some important provisions that are in the nature of extensions

AMENDED SECTION 2

(b) That the discrimination make other than "*due allowance for differences in the cost of manufacture, sale, or delivery resulting from the different methods of quantities in which such commodities are to such purchasers sold or delivered.*"

(c) The amended section does not contain the equivalent to (c) in the other column, but provides that as a matter of proof a prima facie case of discrimination may be rebutted by the seller "*showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.*"

(d) That the discrimination be not the" result of the seller's selection of customers "in bona fide transactions and not in restraint of trade."

(e) That the discrimination be not the result of "*price changes from the to the wh ere in response to changing conditions affecting the market for or the marketability of the goods concerned, such as, but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court Process, or sales in good faith in discontinuance of business in the goods concerned.*"

of the principle of nondiscrimination. These extensions are independent of the prohibition against the discriminations in price as such. The methods forbidden were evidently considered as either constituting indirect price discrimination or other forms of discrimination which had effects similar to price discrimination. The payment of brokerage, commission, or other compensation in lieu thereof to an intermediary is forbidden, except for services rendered, where the intermediary "is acting in fact for or in behalf, or

is subject to the direct or indirect control” of any party to the transaction other than the one paying the intermediary’s compensation. Allowances for advertising and sales-promotion work are declared unlawful unless they are made “available on proportionally equal terms” to all customers who compete with one another. It is also declared unlawful to discriminate between purchasers of a commodity bought for resale by furnishing any services or facilities for processing, handling, selling, or offering for sale, that are not “accorded to all purchasers on proportionately equal terms.” The new act specifically declares it unlawful for any person engaged in commerce “knowingly to induce or receive a discrimination in price” that is prohibited by the amended section 2. The new act affirmatively protects the right of a cooperative association to distribute its earnings in proportion to the volume of dealings of its respective members.

As an aid to more effective enforcement of section 2 of the act, the act provides that when the Commission shall have established a prime facie case of “discrimination in price or services or facilities” the burden of rebutting such a case shall be upon the alleged violator and “unless justification shall be affirmatively shown” the Commission may order the discrimination terminated. The theory of this provision is that the facts which constitute justification are necessarily in the possession of the alleged discriminator. The act preserves all rights of action arising, litigation pending, and orders of the Federal Trade Commission, based on section 2 of the Clayton Act, issued and in effect, or pending on review prior to passage of the new act. Provision is made for reopening of proceedings concluded under the old law and the modification or amendment of the Commission’s original orders to include any violations found of the new law. Court review is provided for as in the case of the old law.

Section 3 of the new act makes it a criminal offense and provides a penalty of fine or imprisonment of persons who knowingly discriminate or assist in discriminating. This section, however, sets up a definition of criminal discrimination which is not identical with the definitions of discrimination contained in sections 2A to F, inclusive, of the new act. Section 3 of the new act also makes it a criminal offense to sell goods in any part of the United States at prices lower than elsewhere in the United States for the purpose of destroying competition or eliminating a competitor. It is also a criminal offense to sell goods “at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.”

Authority to enforce compliance with the new act, as distinguished from criminal proceedings, is by virtue of section 11 of the Clayton Act vested in the Commission in all cases in which the new act is not applicable to common carriers subject to the Interstate Com-

merce Act, as amended, to common carriers engaged in wire or radio communication or radio transmission of energy, or to banks, banking associations, and trust companies.

The Interstate Commerce Commission has authority to enforce compliance by common carriers subject to the Interstate Commerce Act as amended; the Federal Communications Commission has authority to enforce compliance in cases applicable to common carriers engaged in wire or radio communication or radio transmission of energy; while the Federal Reserve Board has authority to enforce compliance where the act is applicable to banks, banking associations, and trust companies.

Other proceedings for violation and threatened violation of the new act are provided for by other sections of the Clayton Act.

Under section 15, the Department of Justice is given the right to institute proceedings to prevent and restrain violations of the new act and the right of any person, firm, corporation, or association for injunctive relief against threatened loss or damage by violation of the new act is provided in section 16 of the Clayton Act, excepting that right to injunctive relief for threatened loss or damage may not be brought against any common carrier subject to the regulation, supervision, or other jurisdiction of the Interstate Commerce Commission.

In addition to proceedings which may be instituted to enforce compliance with, and to restrain violations of section 2 of the Clayton Act, as amended by the new act, a person who is injured in his business or property by reason of violations of that section may sue for threefold damages and cost of suit, including a reasonable attorney's fee. This is provided by section 4 of the Clayton Act.

PUBLICATIONS OF THE COMMISSION

Publications of the Commission, reflecting the character and scope of its work, vary in content and treatment from year to year, especially documents relating to general business and industrial inquiries.⁵ Such studies are illustrated by appropriate charts, tables, and statistics. These fact-finding studies, reports, and recommendations deal not only with current developments, possible abuses, and trends in an industry, but contain scientific and historical background. Considered as a whole, they have supplied economists and students of business and government, the Congress, and the public with information not only of general interest but of great value as respects the need or wisdom of new and important legislation, to which they have frequently led, as well as corrective action by the Department of Justice and private interests affected. The Supreme Court has

⁵ These investigations are listed and briefly described beginning at p.157.

at times had recourse to them, and many of them have been designated for reading in connection with university and college courses in economics and law.

Findings and orders of the Commission, as published, contain interesting and important material regarding business and industry. They tell, case by case, the story of unfair competition, exclusive-dealing contracts, price discriminations, and capital-stock acquisitions in violation of the statutes which the Commission administers, and of the measures taken by the Commission to prevent such violations of law.

The Commission's decisions are printed first in the form of advance sheets with permanent volume number and pagination, and later as bound volumes

Regarding the Commission's publications, the Federal Trade Commission Act, section 6 (f) , says the Commission shall have power--

to make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

RECOMMENDATIONS

In submitting this annual report, the Commission avails itself of the above authorization to renew certain recommendations for additional legislation. These recommendations are based upon the Commission's experience in administering and enforcing the remedial laws committed to its jurisdiction.

The Commission recommends that the first two paragraphs of section 5 of the Federal Trade Commission Act be amended to read as follows:

SEC. 5. Unfair methods of competition in commerce *and unfair or deceptive acts and practices in commerce* are hereby declared unlawful.

The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, and common carriers subject to the acts to regulate commerce, from using unfair methods of competition in commerce *and unfair or deceptive acts and practices in commerce*. [New language in italics.]

In many cases it is very difficult, if not impossible, to show a specific injury to competitors, even though injury to both competitors and the public is manifest. The development of such evidence involves much time and expense. The Government should not be subjected to this expense.

In the interest of expedition and consistency in enforcement of its orders, the Commission renews its recommendation that section 5 affirmatively provide that court review may be obtained by the Commission without first proving the order has been violated and that upon affirmance the court shall issue its own decree commanding obedience to the Commission's order. The Commission also renews its recommendation that its orders shall become final and conclusive and violation thereof punishable as a contempt of court if the respondent does not apply for court review within sixty (60) days after the order is issued.

PART I. GENERAL INVESTIGATIONS

MILK AND DAIRY PRODUCTS

AGRICULTURAL INCOME

STEEL SHEET PILING (COLLUSIVE BIDDING)

TEXTILE INDUSTRIES

ELECTRIC AND GAS UTILITIES

PETROLEUM DECREE INVESTIGATION

PRICE BASES-RANGE BOILER INDUSTRY

PART I. GENERAL INVESTIGATIONS

MILK AND DAIRY PRODUCTS

REPORT SUBMITTED ON TRADE CONDITIONS IN SEVERAL AREAS

An inquiry into conditions with respect to the sale and distribution of milk and other dairy products was ordered by Congress under House Concurrent Resolution No. 32, Seventy-third Congress, second session, adopted June 15, 1934.

Under this resolution, the Commission was directed to determine whether any “persons, partnership, association, , cooperative or corporation is operating within any milkshed of the United States in such a manner as to substantially lessen competition
01. tend to create a monopoly in the sale or distribution of such dairy products * * *”

The resolution also directed the Commission to ascertain whether such person or organization “is a party to any conspiracy in restraint of trade or commerce in any such dairy products, or is in any way monopolizing or attempting to monopolize such trade or commerce within the United States or any part thereof”, also whether any such person or organization “is using any unfair methods of com-petition in connection with the sale or distribution of any such dairy products, or is in any way operating to depress the price of milk sold by producers.”

The Commission, on April 5, 1935, transmitted to Congress its first report on this investigation entitled Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds, later printed as House Document No. 152, Seventy-fourth Congress, first session. This report was summarized in the Commission ‘s annual report for 1935.

A supplemental report, Sale and Distribution of Milk and Milk Products, discussing certain problems encountered in the Connecticut and Philadelphia milksheds, was sent to Congress as of December 31, 1935, and later printed as House Document No.387, Seventy-fourth Congress, second session.

Other reports on the milk investigation issued during the fiscal year 1935-36 were:

Sale and Distribution of Milk and Milk Products, Chicago Sales Area, April 15, 1936.

Milk Market Regulations and Practices of Distributors in Relation to Margins, Costs and Profits of Distributors in Boston, Baltimore, Cincinnati, and St. Louis, June 4, 1936.

Sale and Distribution of Milk and Milk Products, Twin Cities Area, June 15, 1936.

Facts and conditions presented in reports issued during the fiscal year are summarized as follows:

Supplemental report, Connecticut and Philadelphia areas.--Philadelphia the theory of paying for milk purchased from producers on the basis of use by the distributors, under the base surplus plan, was largely nullified by a practice not in accord with the utilization theory. Instead of most of the distributors settling with each producer on the basis of utilization of milk, settlement was made according to the proportion of each producer's basic quantity up to 100 percent of such quantity which was delivered by such producer.

This practice was described as a grave abuse because, to the extent that producers failed to ship their basic quantities or quotas, the distributors were able to use, as class I milk (milk sold for consumption in fluid form), deliveries made by other producers in excess of their basic quantities, the excess being paid for at the lower surplus rate.

In Connecticut, however, producers were generally paid under the base surplus plan in accordance with the actual utilization of milk by distributors. The method of settlement used in Connecticut, when properly administered, assures payment to producers in accordance with the distributors' utilization and thus prevents the latter from obtaining a part of their fluid milk requirements at surplus prices.

Another contrast noted between the two milksheds was the failure of the Interstate Milk Producers' Association, operating in the Philadelphia milkshed, adequately to protect the interests of its members. either in respect to milk settlements or in respect to producers' basic quantities under the base surplus plan, whereas the Connecticut Milk Producers' Association was far more successful in protecting the interests of its members.

Another important contrast between the Connecticut and Philadelphia milksheds discussed in the report was in connection with the differences between the prices paid producers for class I milk and the prices for the lower classes, or surplus milk, in the respective sheds. In Connecticut this spread was wide and made it profitable for flat-price distributors to operate, whereas in Philadelphia the relationship between the two prices was much narrower than in Connecticut and flat-price buyers were much less important, relatively. The report pointed out the possible effects upon general market conditions of these price relationships.

Rates of return on total milk investment for nine Connecticut distributing companies examined declined from about 19 percent to a little more than 6 percent from 1931 to 1933. This decline is accounted for chiefly by the progressive decrease in the sales of milk and milk products. The average rate of return for the whole 4-year period (1930 to 1933) was 14.14 percent, which shows that, despite the depression extending over these years, the dealers were still making a profit, some of them in fact a high rate of return.

For Philadelphia, the rates of return for seven distributing companies examined fell from about 20 percent in 1930 to less than 6 percent in 1934.

The report also pointed out how costs may be so allocated in the distributors' accounting as to show varying results for the several products handled by milk distributors.

The report discussed the difficulties of determining costs per unit of delivery on wholesale and retail routes and suggested the desirability for the industry of devising some standard system of accumulating and allocating delivery costs in order that accurate and comparable information might be available on this important expense item.

The gross spread or margin per quart on all milk products sold by 3 Connecticut distributors was \$0.03427 as compared with \$0.05262 for 10 Philadelphia distributors. The difference between these results for the two milksheds was influenced by the fact that the Connecticut companies sold substantial quantities of both fluid cream and other products to affiliated companies at cost, thus reducing the margin per quart for both items. There was comparatively little difference between the two markets in the respective spreads on fluid milk.

Sale and distribution of milk products, Chicago sales area.--The Chicago sales area had a yearly requirement of approximately 430,000,000 quarts of fluid milk, produced chiefly in northern Illinois, northern Indiana, and southern Wisconsin.

The Pure Milk Association was the principal producers' organization in that area.

Prior to adoption of a new sales agreement, November 1, 1935, between the producers' organization and distributors, the base and surplus plan of paying producers was in effect.

Under this plan each producer was paid class I, or fluid milk prices, for a certain percentage of his base allotment, based on his average production during September, October, and November 1929. Producers have not had opportunity to reestablish basics since 1929. The percentages of base allotment on which fluid milk prices were allowed were fixed arbitrarily by agreement between the cooperative association and the distributors.

The sales contract in force since November 1, 1935, provided for flat prices, based on prices paid for milk used in the manufacture of evaporated or condensed milk. Prices paid for milk used in the production of evaporated milk are computed by the use of an arbitrary formula based on the current price of 92 score butter on the Chicago market in combination with the current weekly price of "twins" cheese quoted on the Wisconsin Cheese Exchange at Plymouth, Wis. The price of "twins" cheese is determined at a 15 minute meeting at Plymouth, Wis., each week, of a, few large dairy and meat packing companies, constituting the active members of the cheese exchange, at which a small quantity of cheese is sold, not for the purpose of supplying any demand therefor, but for the purpose of fixing the price for the following week.

Two large dairy products corporations distributed fluid milk in the Chicago sales area--The Borden Co. and Bowman Dairy Co. While the National Dairy Products Corporation distributed no fluid milk in the Chicago market, it had a wholly owned subsidiary, Kraft Phoenix Cheese Corporation, a large purchaser of raw milk from farmers in the production area accessible to Chicago, engaged in the manufacture of cheese.

The Borden Co., through its subsidiary, Borden-Wieland, Inc., and Bowman Dairy Co., sold approximately 49 percent of the fluid milk sold in Chicago, and handled nearly 68 percent of the fluid milk sold there by all dealers purchasing under contract from the Pure Milk Association.

The records and files of the Milk Dealers' Bottle Exchange, operating in the Chicago area, indicated that it was organized by and operated for the benefit of the large distributors and such other distributors as cooperated with them in maintaining uniform practices and stabilized prices. The two largest fluid milk distributors in Chicago owned a controlling interest in the outstanding voting stock of the exchange.

Facts were also developed indicating that officials and members of the Milk Wagon Drivers' Union, through intimidation, threats and violence, had frequently interfered with the work of employees of independent milk distributors of Chicago. Drivers for independent dealers had been refused membership in the union because such dealers cut prices. The two large milk distributors in Chicago employed a majority of union members. Union officials tried to get milk peddlers selling milk for independent distributors either to sell their business or buy milk from Borden-Wieland, Inc.

Files and records of the Chicago Board of Health revealed that requirements for improvements on many dairy farms worked hardships on small producers. While evidence was found in a few cases

of favoritism in granting extensions of time for making required changes, no evidence of collusion on the part of officials with either the producers' cooperatives or the distributors was developed, notwithstanding the wide circulation of rumors that such collusion existed.

Boston, Baltimore, Cincinnati, and St. Louis report.--This report contained, in addition to some discussion of control measures, an analysis of the unit margins, costs, and profits of certain distributors, and of the milk settlement plans used in paying producers. A number of practices engaged in by these distributors which had a decided effect on their margins were also shown. A comparison of methods of allocating delivery expenses to products was presented, with some critical comment upon their value.

The report will prove of value to those entrusted with formulating milk marketing control measures, and officials administering control acts will likewise find it helpful.

As appears in the report, conditions among milk producers, in the areas from which these four cities obtained milk, varied greatly. Conditions in the Boston market were said to have long been unstable, and, while the efforts of the Federal Market Administrator and the Massachusetts Board of Milk Control had done much to improve conditions in that milkshed, there continued to be dissatisfaction among many producers, especially in Massachusetts. As in Boston, conditions in the Cincinnati milkshed, especially prior to the existence of the Ohio Milk Marketing Commission, were unstable, and this was also true of conditions in the St. Louis area. The report discussed possible reasons for the conditions which existed in the four milksheds covered by the report and also pointed out a number of abuses which had existed from time to time.

The comparatively greater stability of the Baltimore milk market might be ascribed to the fact that the only cooperative in the milkshed had kept the price and surplus problems at a minimum, and also because of the comparatively few milk distributors operating in the Baltimore sales area. Furthermore, the importance of maintaining proper relationships between class and blended prices was fully recognized.

The methods used by distributors for settlement with producers for milk in the four markets were discussed in detail and a number of the abuses found in this connection described.

The excess of the class I price over the blended price was greatest in the case of Boston, 1.58 cents per quart, and the least for Baltimore, 0.78 cents per quart, with St. Louis occupying an intermediate position with 1.11 cents per quart. The significance of these figures lies in the fact that they may be closely related to conditions in the three milksheds. In Baltimore, where the difference is narrow, market

conditions are reported to be remarkably stable, while in Boston and St. Louis the reverse appears to be true.

The actual gross margins per quart on all milk products sold by the distributors covered by the inquiry into these four markets during October 1935, were 5.02 cents for Baltimore, 4.28 cents for Cincinnati, 3.41 cents for St. Louis, and 3.35 cents for Boston.

The combined rates of return earned by the companies covered by the inquiry in the four cities, respectively, on their actual milk business investment ranged from 25.6 percent in 1930 down to 14 percent in 1934 for two Baltimore companies; from 20.5 percent in 1930 to 3.3 percent in 1934 for two Boston companies; from 13.1 percent in 1930 to a loss of .02 percent in 1933 for four Cincinnati companies, and from 19.4 percent in 1930 to a loss of 2.8 percent in 1935 for three St. Louis companies. It appears that most of the companies covered by the inquiry realized substantial returns during 1935 on actual investments in the milk business.

Sale and distribution of milk products--Twin Cities area.--Minneapolis and St. Paul are situated in one of the most favorable dairy regions in the United States. Fluid milk consumed in the two cities is supplied by the producers within a radius of approximately 40 miles.

The Twin Cities Milk Producers' Association is the largest producers' organization in the Twin Cities area. Officials of the association met with distributors at least once each month to agree upon prices for fluid milk. Fluid milk only was purchased from the association by distributors, therefore, there was but one price for one class of milk.

The plan of arriving at prices for fluid milk in the Twin Cities area was based upon a final average arrived at by a compilation of average cheese prices on the Plymouth, Wis., Cheese Exchange, and the average 92-score New York Extra butter prices on the New York butter market. To this final average were added fixed amounts each month to cover loss of whey, transportation charges, and other incidental expenses. Evidence also disclosed that prices were influenced by fluctuations in the butter and cheese markets, and the price at which distributors could purchase milk independently of the association.

In March 1933, independent creameries offered to sell milk in Minneapolis to customers of Twin Cities Milk Producers' Association at 20 cents below the association price, which resulted in a price war. During the price war, the cooperative association reduced the price of milk to Minneapolis distributors to 50 cents per hundred pounds, or a small fraction over 1 cent per quart. This was less than the association returned to its members, the loss being replaced from the reserve-for-advertising fund. During the low-price period

in 1933, the number of independent distributors in Minneapolis purchasing from producers, not members of the association, was reduced from 11 to 4.

A marketing agreement and license for milk under the Agricultural Adjustment Act became effective in the Twin Cities area September 2, 1933. Minimum prices were fixed for payment to producers and for prices to be charged customers.

AGRICULTURAL INCOME INVESTIGATION

INQUIRY WITH RESPECT TO FINANCIAL AND ECONOMIC CONDITION OF AGRICULTURAL PRODUCERS

This investigation was directed by a joint resolution of Congress, Public Resolution No. 61, Seventy-fourth Congress, first session, approved August 27, 1935, and subsequently amended by Public Resolution No. 86, Seventy-fourth Congress, second session, and Public Resolution No. 112, Seventy-fourth Congress, second session.

Public Resolution No. 61 directed the Commission to investigate and report to the Congress the extent of the decline in agricultural income in recent years; the extent of increases or decreases in the income of principal corporations engaged in the sale, manufacture, warehousing, and processing of principal farm products; the proportion of total consumer cost of representative products manufactured or processed from principal farm products which is represented by proceeds to the farmers, manufacturers, processors, warehouse-men, and distributors of such products amid such representative products manufactured therefrom; the financial position of the principal corporations engaged in manufacturing, processing, distributing, and marketing representative major products manufactured from such principal farm products, including the capitalization and assets of such corporations, their investment, costs, profits, and rates of return; the salaries of officers of such corporations and the extent to which officers of such corporations receiving Salaries have paid income taxes.

The resolution also directed the Commission to investigate the extent of concentration of control and of monopoly in the manufacturing, processing, warehousing, and distribution of major farm products, together with the methods and devices used by such corporations for obtaining such control and the extent to which any fraudulent, dishonest, unfair, and injurious methods are employed in the grading, warehousing, and transportation of such farm products, including combinations, monopolies, and price fixing.

The resolution also directed the Commission to investigate and report the extent to which cooperative agencies have entered into the processing, warehousing, and marketing of representative major farm

products, and the general effect of such cooperative agencies among producers and consumers.

The resolution directed the Commission to report "any conclusions and/or recommendations with regard to increasing the income of farm producers, or other recommendations with regard to the improvement of the economic position of farmers or consumers, growing out of the inquiry."

The resolution directing the investigation was approved in August 1935, but funds were not made available for the purpose until February 1936. During that interval the Commission did such preliminary work as was possible, pending an appropriation by Congress.

Seven principal farm commodities were chosen for investigation as comprising the leading source of agricultural income. These were: Dairy products, cotton, wheat, cattle, hogs, tobacco, and potatoes.

Subsequently, by Public Resolution No.112, Seventy-fourth Congress, second session, provision was made for broadening the scope of the inquiry to include table and juice grapes, fresh fruits, and vegetables.

The original resolution directed the Commission to present an interim report to Congress on January 1, 1936, and a final report, with recommendations, not later than July 1, 1936. The interim report was filed as directed. By Public Resolution No.86, Seventy-fourth Congress, second session, the time in which the Commission might file its final report in response to Public Resolution No 61, was extended to October 1, 1936, while Public Resolution No.112 directed that an interim report on the investigation of table and juice grapes, and fresh fruits and vegetables be filed on or before January 31, 1937, and a final report in respect to those products not later than May 31, 1937.

ECONOMIC ASPECTS OF THE INQUIRY

As regards the economic aspects of this investigation, the Commission relied largely upon information collected by report form or questionnaire. This applies to the extent of increase or decrease of income of those whose income the resolution requires to be investigated; to the distribution of the consumer's dollar as between groups specified by the resolution; to the financial position of corporations covered by the resolution; to the amounts of officers' salaries paid by such corporations and the extent such officers pay income taxes thereon, and the extent to which, if at all, such corporations avoid incomes taxes; the extent of control and of monopoly in the handling or processing of farm commodities; and, to a considerable extent, to the investigation of producers' cooperative agencies.

For collecting information on all these matters the report form or questionnaire has been used. However, so comprehensive by necessity was the form, and so many the companies covered, that the Commission sent out from 15 to 25 accountants to assist companies in their preparation of the forms.

In general, there was entire willingness on the part of companies scheduled to cooperate by filling out the forms as fully and accurately as possible. In a few instances, however, although there was no outright refusal of the information requested the companies concerned made little or no attempt to compile the information, and only by the Commission's completely taking the work over were the forms made out. Seven corporations refused to furnish or to permit to be compiled from their records certain parts of the data required by the forms and it became necessary for the Commission to serve them with default notices, as provided in section 10 of the Federal Trade Commission Act. Four of these companies complied with the Commission's request before the expiration of the notice period.

At the close of the fiscal year, tabulation of these report-form data was under way and a portion of the report, less dependent upon report-form returns, was in draft form.

LEGAL PHASES OF THE INVESTIGATION

Legal aspects of the investigation included a study of what the original resolution described as--

(1) Methods and devices used by such corporations for obtaining and maintaining their control or monopoly of the manufacturing, marketing, processing, warehousing, and distribution of such commodities, * * * ; and

(2) The extent to which fraudulent, dishonest, unfair, and injurious methods are employed in the grading, warehousing, and transportation of such farm products, including combinations, monopolies, price fixing. * * *

Tobacco and potato markets studied.--Extensive field inquiry was required in the legal investigation but the size of the appropriation available made it necessary to limit the study to two commodities--namely tobacco and potatoes.

As to tobacco the field work included investigation and analysis of the practices of farmers, warehousemen, packers, and, dealers in Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Kentucky, and Tennessee. Useful information and data were obtained from leading tobacco, snuff, and cigar manufacturers, and detailed studies were made of the distribution of tobacco products in Boston, New York; Cleveland, Chicago, and Detroit by chain stores, jobbers, and retailers, but primary consideration was given to the effect upon these distributional agencies of the selling practices of manufacturers and the activities of trade association.

Because manufacturing and processing are minor elements in the potato business, the inquiry regarding that commodity was confined principally to an examination of the marketing and distributive processes. Information was obtained by interviewing farmers and local dealers in Florida, South Carolina, North Carolina, Virginia, Maryland, New Jersey, Maine, New York, Michigan, and Wisconsin, and receivers, jobbers, and chain-store operators in the Boston, New York, and Chicago markets. Inquiry also was made with regard to the existence of alleged business racketeering in terminal markets and the effects thereof on the producer and consumer.

With minor exceptions the legal investigational work with respect to these two agricultural products had been completed and preparation of the final report on the legal phases commenced before the close of the fiscal year.

COLLUSIVE BIDS ON STEEL SHEET PILING

REPORT TO PRESIDENT REFERRED TO ATTORNEY GENERAL FOR “APPROPRIATE ACTION”

At the direction of the President, the Commission made an investigation of the circumstances under which producers of steel sheet piling had submitted identical bids on three construction projects financed with Federal funds. The complaints had originated with Secretary of the Interior Ickes, in charge of the Public Works Administration. The inquiry was pursued and the results submitted June 10, 1936, to the President, who immediately referred the report to the Attorney General “for appropriate action.” The three projects involved were the Triborough Bridge at New York City, a harbor project at Miami, Fla., and an ocean terminal at Morehead City, N. C.

The Commission found that the bids were identical because the bidders had continued to formulate delivered prices under the basing point system as set out in the N. R. A. Code and that the industry had adopted a formal resolution to carry Oil under the code after the Supreme Court had held such codes unenforceable. The bidders not only admitted that the basing point system was the reason for their identical delivered prices, but the Commission was able to confirm the admission by breaking down those prices into their constituent elements and accounting for the identity of each element. There are only five domestic producers of steel sheet piling, two of them being subsidiaries of the United States Steel Corporation. The other three are Bethlehem Steel Corporation, Inland Steel Co., and Jones & Laughlin Steel Corporation.

The report demonstrated that the basing point system on steel sheet piling is in essence in a single basing point system over large areas,

with Pittsburgh governing most of the eastern section of the country and Chicago governing most of the west. When mills in one area sell into the area governed by another basing point, they must abide by the price of the other basing point, even though it is higher than their own. When selling piling in the higher price territories governed by Chicago and Buffalo, this requirement applies to Pittsburgh. The report discloses that identity of delivered prices on steel products generally is preserved to fractions of a tenth of a cent by elaborate formulae worked out by committees of the American Iron and Steel Institute. In one case, a bidder was 12 cents below his competitors on a \$60,000 Government order for pipe, because he carried out the delivered price to three decimal places instead of two. When discovered, such loopholes were stopped by special provisions.

In answer to the President's inquiry whether the prices quoted on steel sheet piling in the three cases investigated were "fair and reasonable", the Commission reported that an affirmative answer could not be given. It pointed out that a price which is fair and reasonable for one producer tested by ability to provide earnings on its capitalization or on its actual investment may be wholly inadequate for another producer and excessive for a third. The report illustrated this by an analysis of the different earnings on capitalization of the several piling producers. In this connection, it was brought out that although heavily over capitalized, the United States Steel Corporation built up a huge surplus from the level of prices maintained for many years. While the price level since the depression has provided that corporation inadequate earnings on its capitalization, it has provided adequate earnings for some of its competitors. Nevertheless, that corporation is the acknowledged price leader of the industry. The report also presented a number of other reasons that would preclude any affirmation of the fairness and reasonableness of the prices on sheet piling. Among them was that it would be inadmissible as a matter of public policy to consider the fairness and reasonableness of a price fixed in violation of law.

The report stressed the broader social and economic significance of the conditions typified by the collusive bidding on sheet piling. It pointed out that the entire price structure of the iron and steel industry was the result of an elaborate concert of action among supposedly competing interests amid that other important industries were similarly organized. The cement industry, closely allied with steel and with its largest producer a subsidiary of the United States Steel Corporation, uses a basing point system similar to that of the steel industry. A prominent cement manufacturer, in writing an officer of his trade organization, characterized as "sheer bunk and hypocrisy" the contention that the system is an expression of free competi-

tion. He further stated that the cement industry "must systematically restrain competition or be ruined."

The report made reference to Secretary Ickes' recent testimony before the Senate Committee on Interstate Commerce that during the 9-month period immediately subsequent to the codes, his department had received identical bids on 48 different commodities and in 257 instances, and that as a result the Federal statute requiring awards to be made on the basis of competitive bids, had been nullified. The Commission reiterated statements made in a prior report as an epitome of the issue:

If the capitalistic system does not function as a competitive economy, there will be increasing question whether it can or should endure. The real friends of capitalism are those who insist on preserving its competitive character.

TEXTILE INDUSTRIES

REPORT, WHEN COMPLETED, WILL EMBRACE PERIOD OF 1938-JUNE 30, 1936

Origin of the inquiry.--The Commission's textile inquiry was undertaken pursuant to an Executive order of September 26, 1934, which directed the Commission to investigate and report on the labor costs, rates of return, and investments of companies in the textile industries in order to show what effect increased wages or shorter hours might have on such industries, and to make public the results. The Commission limited its inquiry to the spinning (throwing for silk), weaving, and finishing of cotton, wool, silk, and rayon yarns and woven goods and the manufacture of thread, cordage, and twine.

On January 25, 1935, the President requested the Commission to Continue the investigation to cover the last 6 months of 1934, and later, its continuance was authorized by an appropriation so as to include 1935 and the first 6 months of 1936.

Reports issued.--Textile Industries, Part 1, Investment and Profit, a preliminary summary report covering 765 companies, was made public as of December 31, 1934. Reports based on data furnished by these 765 companies for specified periods from January 1, 1933, to August 31, 1934, were issued during the fiscal year ending June 30, 1935. These reports were as follows: Part 2, Cotton Textile Industry; Part 3, Woolen and Worsted Textile Industry ; Part 4, Silk and Rayon Textile Industry ; Part 5, Thread, Cordage, and Twine Industries ; and Part 6, Tabulations Showing Financial and Operating Results According to Rates of Return on Investment, Rates of Net Profit or Loss on Sales, and Amount of Investment.

During the fiscal year ending June 30, 1936, a report based on information furnished by 1,059 companies covering the four 6-month periods from the beginning of 1933 to the end of 1934 was issued in four parts. The titles of these parts are:

Part 1.--The Cotton Textile Industry in 1933 and 1934.

Certain tabulations made at the suggestion of the Cabinet Committee on Textiles showing analysis of operating results in 1933 and 1934, grouped by type of product, size of textile investment, rate of return on textile investment, and by profit or loss on sales, of 108 cotton spinning companies, and for 296 companies manufacturing cotton woven goods.

Part 2.--The Woolen and Worsted Textile Industry in 1933 and 1934.

Part 3.--The Silk and Rayon Textile Industry in 1933 and 1934.

Part 4.--The Thread, Cordage, and Twine Industries in 1933 and 1934.

The first two parts of a study based on data furnished by 1,188 companies for the first half of 1935 were issued during the fiscal year ending June 30, 1936. The third part was practically completed at the end of the fiscal year. The titles of these parts are:

Part 1.--The Cotton Textile Industry in the First Half of 1935 (including Thread, Cordage and Twine).

Part 2.--The Woolen and Worsted Textile Industry in the First Half of 1935.

Part 3.--The Silk and Rayon Textile Industry in the First Half of 1935.

In addition to the foregoing, preliminary reports based on information furnished by 582 cotton textile companies for the first half of 1935 and by 257 cotton textile companies for the 6-month period ending December 31, 1935, were released as of March 19 and April 10.

As rapidly as these parts were completed, copies were forwarded to the President, the Cabinet Committee on Textiles consisting of Hon. Henry A. Wallace, Secretary of Agriculture; Hon. Frances Perkins, Secretary of Labor; Hon. Cordell Hull, Secretary of State; and Hon. Daniel C. Roper, Secretary of Commerce; the Labor Advisory Board, and other interested Government officials, textile trade associations, and labor executives, and made available to the public. Further reports to be made public later will cover the period up to and including June 30, 1936.

The report for the first half of 1935 introduced tables showing separately the unit cost of labor, fuel and power, dyes and chemicals, property taxes, depreciation, gain or loss on commodity exchange futures, processing tax, raw material, cost of selling and bad debts, payments to officers and directors, and other general and administrative expenses, for each pound or square yard of goods sold. These unit costs are shown for only a limited number of companies in each branch of the textile industries, due to the fact that the majority of the companies manufacture two or more general types of product, and the separation of mill cost for different kinds of goods manufactured in the same plant is a very difficult cost accounting problem.

Due to these cost accounting difficulties, the textile manufacturers were not requested to furnish cost data or selling prices for different types of goods manufactured. Consequently, it was impossible to show unit cost where two or more different types were produced.

Ratios of cost for groups of companies manufacturing the same classes of goods, grouped by size of investment, rate of return on textile investment, and by profit or loss on sales are shown in appendix tables of the textile reports.

ELECTRIC AND GAS UTILITIES

INVESTIGATION CONCLUDED AS OF DECEMBER 31, 1935

The electric and gas utility inquiry, begun under Senate Resolution No.83, Seventieth Congress, first session, introduced by the late Senator Walsh, of Montana, and continued under Senate Joint Resolution 115, Seventy-third Congress, second session, was concluded at the close of the calendar year 1935.

The accounting examination of electric and gas utility companies covered the growth of capital assets and capital liabilities, methods of issuing securities, including payments of commissions, fees, bonuses, etc., and the relations between electric and gas holding companies and subsidiary operating, construction, and finance companies.

A study was also made of servicing and other contracts between the holding companies and operating utilities, of syndicate operations in which company officials were active, and engineering and economic surveys were made of the physical properties and operations of producing, pipe-line transportation, and distribution companies and systems.

During the inquiry, the Commission's accountants, engineers, and economists examined 29 holding companies having total assets of \$6,108,128,713, also 70 subholding companies with total assets of \$5,685,403,201, and 278 operating companies with total assets of \$7,245,106,464. In many cases an examination involved numerous predecessor companies.

Testimony and reports printed as exhibits on the financial and economic phases of the electric and gas utilities industries are printed in 64 volumes with a total of approximately 52,000 pages. In addition, three volumes of summary reports, and an index to volumes 21-45, inclusive, have been published.

PUBLICITY AND PROPAGANDA ACTIVITIES

The Senate resolution under which the investigation was conducted said:

The Commission is further empowered to inquire and report whether, and to what extent, such corporations or any of the officers thereof or any one in their behalf or in behalf of any organization of which any such corporation may be a member, through the expenditure of money or through the control of the avenues of publicity, have made any and what effort to influence or control public opinion or account of municipal or public ownership of the means by which power is developed and electrical energy is generated and distributed, or since 1923 to influence or control elections: *Provided*, That the elections herein referred to shall be limited to the elections of President, Vice President, and Members of the United States Senate.

Pursuant thereto, the Commission

(1) Investigated and reported upon the publicity and propaganda activities and expenditures of the various associations and committees of the electric and gas industries. The record of this part of the investigation is practically all contained in vols. 1 to 20, inclusive, with accompanying volumes of exhibits. The report on this phase is printed as part 71--A, and the index to these volumes is printed as part 72-A.

(2) Investigated and reported on the publicity and propaganda activities and expenditures of the various groups and companies. These activities were carried on either in connection with the associations and Committees, or separately, and are additional to those reported on in part 71-A. The records of these activities and expenditures are printed throughout the various volumes, in connection with the reports on the financial structure. The report on this phase is printed as part 81A. This volume also contains an index to the publicity and propaganda material found in vols. 21 to 84, inclusive.

RECORD OF INVESTIGATION EMBRACES 94 VOLUMES

The record of the investigation embraces 94 printed volumes, of which 84 comprise testimony and exhibits, ¹ 4 of which are summary reports, 1 is a final report, 1 is a combined final report on publicity and propaganda with index, 2 are appendixes, and 2 are indexes.

Printed as part of the series known as Utility Corporations, Senate Document 92, Seventieth Congress, first Session, the summary, final, appendix, and index volumes are as follows:

Title	Vol. no.
Summary report: Compilation of proposals and views for and against Federal incorporation and licensing of corporations and compilation of State constitutional, statutory, and case law concerning corporations with particular attention to public-utility holding and operating companies	69-A.
Summary report: Efforts by associations and agencies of electric and gas utilities to influence public opinion	71-A
Index of association publicity and propaganda and index of names in parts I to 20, inclusive; and accompanying exhibit volumes	71-B
Summary report: Economic, financial, and corporate phases of holding and operating companies of electric and gas utilities	72-A
Summary report: Holding and operating companies of electric and gas utilities. Survey of State laws and regulations, present extent of Federal regulation, and the need of Federal legislation, conclusions and recommendations and legal studies in support thereof	73-A
Index to testimony in parts 21 to 45, numerical list of exhibits in parts 21 to 45, index of exhibits in parts 21 to 45 index to record on company publicity and propaganda-parts 21 to 45, inclusive.	77-A
Report on publicity and propaganda activities by utilities groups and companies, with index	81-A

Final report en economic, corporate, operating, and financial phases of the natural-gas-producing, pipe-line, and utility industries, with conclusions and recommendations	84-A
Legal appendixes to no. 84-A	84-B
Economic appendixes to no. 84-A	84-0

¹ Volume 84 was in press at the time of publication of tills report.

INDEX TO ELECTRIC AND GAS REPORTS

The first section of the index of the reports in utility corporations, embracing parts (volumes) 21 to 45, was received from the printer during the fiscal year. This is included in part 77-A.

The second section of the index, comprising parts 46 to 70, inclusive of the public utility reports, was completed. These indexed volumes total about 22,000 pages of accounting and other reports and testimony thereon. The index covers about 800 subjects and on these subjects some 200,000 references are made.

Upon completion of parts 46 to 70, work on the third and final section of the index was undertaken. This section will include parts 71 to 84, inclusive, and will cover about 11,000 pages.

During the fiscal year, hearings were held at which reports concerning the following companies or subjects were placed in the record:

COMPANIES CONCERNING WHICH HEARINGS WERE HELD

Company	Vol- ume of record 1	Company	Vol. ume of record 1
Almout Pipe Line Co., Ltd. (Canada)	84	Georgetown Gaslight Co. (principally manufactured gas)	84
Amere Gas Utilities Co	84	Granite Trading Corporation (formerly G. L. Ohrstrom & Co., Inc.)	
Appalachian Gas Corporation	84	Granite Trading Corporation (formerly G. L. Ohrstrom & Co., Inc.)	81
Appalachian Management & Engineering Corporation	84	Home Gas Co	84
Aspen Mountain Gas Co	84	Hope Natural Gas Co	84
Atlantic Seaboard Corporation	83	Hope Producing Co	83
Binghamton Gas Works	84	Hope Producing Co	84
Bowdoin Holding Co	84	Houston Gas & Fuel Co	83
Bowdoin Utilities Co	84	Houston Gulf Gas Co	83
British thermal unit content of natural gas (Relative Usefulness of Different Heat- ing Values)	81	Hutcherson Pipe Line & Gas Co	84
Canadian River Gas Ca	82	Inland Gas Corporation (indentures)	84
Central Hanover Bank & Trust Co	84	Interstate Natural Gas Co., Inc	84
Central States Gas Utilities Co	84	Iroquois Gas Corporation	84
Cities Service Co. (vol. II)	83	J. D. Judd & Co	84
Cleveland municipal system	81	Kansas Pipe Line & Gas Co	84
Colorado Interstate Gas Co	82	Kansas Power & Light Co	84
Colorado Interstate Gas Co. (testimony)	84	Kentucky Fuel Gas Corporation (inden tures)	84
Columbia Engineering Corporation	82	Kentucky Gas Transmission Corporation	84
Columbia Engineering & Management Corporation	82	Kentucky-West Virginia Gas Co	83
Columbia Natural Gas Co	84	Keystone Gas Co., Inc	84
Commonwealth Gas Corporation	84	Keuka Construction Co	84
Commonwealth Gas Systems, Inc. (man. agement 84 Liberty Gas Co	84	Kingman Gas Co	84
Commonwealth & Southern group (pub- licity and propaganda material)	79	Lone Star Gas Co	84
Community Natural Gas Co	84	Lone Star Gas Corporation group	80
Connecting Gas Co., The	84	Lone Star Gas Corporation system (engi- neering)	84
Consolidated Utilities Co	84	Lycoming Producing Co	84
County Gas Co	84	Lycoming United Gas Corporation	84
Dallas Gas Co., The	84	Maryland Gas Transmission Corporation]	84
Dallas Gas Corporation	84	McPherson Gas Co	84
East Ohio Gas Co	83	McPherson Oil & Gas Development Co.]	84
El Paso Natural Gas Co	84	Memphis Natural Gas Co	84
El Paso Gas Utilities Co	84	Minot Gas Co	84

Western Gas Co	84	Minnesota Northern Power Co	84
Equitable Gas Co	83	Mississippi River Fuel Corporation	82
Federal Water Service Corporation (G. L. Ohrstrom group)	81	Missoula Gas & Coke Co	84
Fidelity Gas Co	84	Missouri-Kansas Gas Co	84
Gas Corporation of Concordia	84	Missouri-Kansas Pipe Line Co.	84
Gas Development Co	84	Montana Cities Gas Co	84
Gas Lands Co	84	Montana-Dakota Power Co	84
Gas Utilities Co	84	Montana-Dakota Utilities Co	84
		Montana Petroleum Co	84

1 Utility Corporations, S. Doc. 92, 70th Con g., 1st seas.

COMPANIES CONCERNING WHICH HEARINGS WERE HELD--Continued

Company	Vol- ume of record 1	Company	Vol. ume of record 1
Mountain Fuel Supply Co	84	Reserve Gas Co	84
National Fuel Gas Co	84	River Gas Co	84
Natural Gas Distributing Co	84	San Antonio Public Service Co	84
Nebraska Natural Gas Co	84	Shale Gas Corporation	84
New York State Natural Gas Corporation.	84	Southern Gas Co	83
Niagara Hudson group (exhibits of minutes of various companies)	79	Southern Gas & Fuel Co	83
North American Light & Power Co. (gathering system)	84	Southern Gas & Fuel Co. Re: New Orleans Public Service Co. contract	84
North American Oil & Gas Co.	84	Southern Gas Utilities, Inc	83
North American Pipe Line Co	84	Standard Gas & Electric Co. (interstate statistics)	84
Northern Natural Gas Co. and subsidiaries	81	Tatloyd Oil & Gas Co	84
Northern Natural Gas Co	83	Texas Interstate Pipe Line Co	84
Northern Natural Gas Development Co.	84	Uinta Pipe Line	84
Northern Texas Utilities Co	83	United Gas Corporation	83
Northwest States Utilities Co	81	United Gas Public Service Co	83
Ogden Gas Co	84	United Natural Gas Corporation	84
Ohio Edison Co. (Commonwealth & Southern Group)	79	United Power & Light Corporation	84
Oklahoma Natural Gas Co	83	United Production Corporation	83
Oklahoma Natural Gas Corporation	84	Utah Gas & Coke Co	84
Panhandle Eastern Pipe Line Co	84	Utilities Power & Light Corporation (schedule E)	81
Pan handle Illinois Pipe Line Co	84	Virginia Gas Distributing Corporation	84
Peoples Gas Co	84	Virginia Gas Transmission Corporation	84
Peoples Ice & Fuel Co	84	Wasatch Gas Co	84
Peoples Natural Gas Co	84	Washington Gas Light Co. (principally manufactured gas)	84
Pittsburgh & West Virginia Gas Co.	83	Western Gas Co	84
Power, Gas & Water Securities Corporation (G. L. Ohrstrom group)	81	Western Pipe Line & Gas Co	84
Public Service Co. of Kansas	81	Western Public Service Corporation	84
Relative Usefulness of Different Heating Values (B. t. u. content of natural gas)	81	Wibaux Gas Co	84

FINAL REPORT ON NATURAL GAS INDUSTRY

The work during the last 6 months of the inquiry was confined to the completion of the examination of companies engaged in the natural gas business, and in the preparation of a final report on the natural gas industry.

This report was submitted to Congress December 31, 1935, and summarized the principal facts developed in this part of the inquiry.

This report described the growth and importance of the natural gas industry; economic aspects of exploitation, waste, and conservation; technical problems of the industry, including field conditions affecting the installation and operation of natural gas Supply systems and building and development of transportation systems of natural gas, and the marketing of natural gas.

It also described the purchasing policies and practices of the large natural gas pipe line companies and groups ; presented prices paid to or charged producers, distributors, and Consumers; and summarized the facts in respect to the form,

structure, and practices of holding companies, and their competitive relations. In the report were set forth in detail the growth of assets of principal natural gas holding company groups and information concerning growth of capital liabilities and financing methods of natural gas production, transmission, and distribution companies.

The report also presented in detail an analysis of income, expenses, and surplus of large gas companies; information concerning the servicing and servicing arrangements of representative gas utility systems, and gave a description of the physical properties and operating characteristics of typical natural gas transmission companies.

Another feature of the Commission's summary report on the Economic, Corporate, Operating, and Financial Phases of the Natural-Gas Producing, Pipe-Line, and Utility Industries with Conclusions and Recommendations, was a series of maps showing, as of 1934, the principal natural-gas producing areas of the United States ; the principal natural-gas pipe lines of the important natural-gas companies, and detailed system maps for 18 large natural-gas pipe line company groups.

PRINCIPAL ABUSES IN GAS INDUSTRY LISTED

Included in the report were a summary of facts and a survey of the legal situation respecting the natural-gas industry. The principal abuses in the industry disclosed by the investigation were summarized in the final report as follows:

- (1) Great waste of natural gas in production.
- (2) Excessive cost of natural-gas production through extravagant competition in drilling wells.
- (3) Unregulated monopolistic control of certain natural-gas production areas.
- (4) Unregulated control of pipe-line transmission and of whole-sale distribution.
- (5) Discrimination in some instances in field purchases of natural gas, and refusals to purchase from independent producers.
- (6) Unregulated competition in building natural-gas pipe lines to markets.
- (7) Costly struggles between rival natural-gas interest to conquer or defend territories of distribution.
- (8) Excessive and inequitable Variations in city gate rates for natural gas among different localities.
- (9) Pyramiding investments in natural-gas enterprises through holding companies, with attendant evils.
- (10) Excessive profits in many natural-gas sales between affiliated companies.
- (11) Inflation of assets and stock watering of certain natural-gas companies.
- (12) Misrepresentation of financial conditions, investments, earnings, and so forth, of some natural-gas operating and holding companies

(13) Reckless financing and stock manipulation by certain natural gas holding companies.

(14) Exploiting subsidiary natural-gas companies through fees for construction, management, promotion, and so forth.

(15) Exaction of excessive bonuses or commissions by investment bankers in connection with financial transactions with natural-gas companies in certain instances.

(16) Exaction of excessive fees and bonuses or commissions by officials of certain companies in connection with sales and construction of properties.

PETROLEUM DECREE INVESTIGATION

Pursuant to duty imposed upon and the power granted to it under Section 6 (c) of the Federal Trade Commission Act and at the request of the Attorney General made April 16, 1936, the Commission is conducting an investigation for the purpose of determining the manner in which a consent decree entered in the case of the Government against certain Pacific coast oil companies, has been observed.

The decree in question was entered under date of September 15, 1930, perpetually enjoining and restraining some 19 companies and 1 individual operating primarily on the Pacific coast from conspiring to monopolize and restrain interstate trade and commerce in the manufacture, transportation, or sale of gasoline in violation of the Sherman Antitrust Act.

A staff of attorney-examiners and accountants has been assigned to the task of developing the facts and gathering information with respect to the activities and practices of the concerns involved.

PRICE BASES

ZONE-PRICE FORMULA IN THE RANGE BOILER INDUSTRY

On March 30, 1936, the Commission transmitted to the two Houses of Congress a report on the zone-price formula in the range boiler industry, one of a series of studies made by the Commission to ascertain the part that transportation charges play in the making of delivered and shipping point prices.

The study disclosed that there is involved in the making of prices in the range boiler industry under the zone-price formula the application of the basing-point principle, which is under scrutiny in other industries. By a recent examination of price schedules for the more important manufacturers for the period from 1932 to March 1936, it was ascertained that the industry was quoting prices and terms which continued the system of making prices by the zone-price

formula found to be prevailing in the earlier period of the Commission's inquiry.

The industry's pricing system sets up three zones: Zone A comprising all States east of the Mississippi River ; zone B, those west of the Mississippi River except the Pacific Coast States ; and zone C the Pacific Coast States. For destinations in zone A the published delivered price is uniform, I. e., the price is f. o. b. plant full freight allowed. For all other destinations the same published price is applicable but with only partial freight allowances. Since the zones are alike for all manufacturers and the gateway points from which allowances in zones other than A are calculated are alike, published delivered prices for any given destination are alike for all manufacturers, provided only the published prices for zone A and other terms of sale are alike.

For a large part of the 6-year period for which detailed price data were obtained ending in 1932 the published delivered prices of the large manufacturers were almost identical, and during the last 3 years of this period when few changes were being made in the published price lists there was comparatively little secret price-cutting in the form of special discounts off these published lists.

The proportion of shipments made by one plant into the territory where other plants have an advantage over it in freight costs is, under this system, large. Such cross shipments were shown for the year 1929. Their significance lies in these facts: That the boilers are competitively of the same type and the type most largely manufactured ; that the shipments of 1929 were typical of other years ; and that the freight is a considerable element of the delivered price.

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PART II. GENERAL LEGAL WORK

DESCRIPTION OF PROCEDURE

A case before the Federal Trade Commission may originate in any one of several ways. The most common origin is through complaint by a consumer, a competitor, or from public sources other than the Commission itself. However, the Commission may initiate an investigation to determine if the laws administered by it are being violated.

No formality is required for anyone to make application for a complaint. A letter setting forth the facts in detail is sufficient, but it should be accompanied by all evidence in possession of the complaining party in support of the charges made.

INFORMAL PROCEDURE

When an application for complaint is received, the Commission, through its chief examiner, considers the essential jurisdictional elements. Under section 5 of the Federal Trade Commission Act it must be shown that a proceeding involves the use of an unfair method of competition in commerce and that such proceeding "would be to the interest of the public." The provisions of section 5 are also extended to foreign trade of American exporters by the Export Trade Act. Sections 2, 3, 7, and 8 of the Clayton Act make unlawful, under the circumstances therein set forth, discrimination in price, tying and exclusive-dealing contracts, agreements, or understandings, corporate acquisitions of stock in competing companies, and interlocking directorates. The Federal Trade Commission, the Interstate Commerce Commission, the Federal Communications Commission, and the Federal Reserve Board are empowered to enforce compliance with such sections in the respective fields of those agencies.

It must also appear that the practice complained of is one over which the Federal Trade Commission has jurisdiction. Frequently it is necessary to obtain additional data by further correspondence or by a preliminary field investigation before deciding whether to docket an application for complaint.

When an application for complaint has been docketed, it is assigned by the chief examiner to an attorney for investigation. The investigation is then made and the facts regarding the matter are

developed. The attorney to whom the application is assigned interviews the party complained against, advising of the charges, and requesting the submission of such evidence as the party complained against may desire to offer in defense or in explanation. In making an investigation it is not the policy of the Commission to disclose the identity of the complainant. If necessary, competitors of the respondent are interviewed to determine the effect of the practice from a competitive viewpoint. It is often desirable to interview consumers for the purpose of developing facts to assist in determining whether the practice alleged constitutes an unfair method of competition and also to establish the requisite public interest.

After developing the facts from all available sources, the examining attorney summarizes the evidence in a report, reviews the law applicable thereto, and makes recommendations as to what action the Commission should take.

The entire record is then reviewed by the chief examiner, and, if found to be complete, is submitted, with a brief statement of facts and his conclusions and recommendations, to the Commission for its consideration. The chief examiner may recommend: (1) Dismissal of the application and closing of the case for lack of evidence in support of the charge or for the reason that the practice does not violate any law over which the Commission has jurisdiction, or (2) closing of the application upon the signing by the respondent of a stipulation of the facts and an agreement to cease and desist from the unlawful practice as charged, or (3) issuance of formal complaint.

If, after consideration of the chief examiner's recommendations, the Commission decides that formal complaint should issue, the case is transmitted to the chief counsel for preparation of formal complaint and trial of the case. Or, if the Commission should direct stipulation, the case is referred to the chief trial examiner for negotiation of such agreement.

Cases involving unfair methods of competition are, in some instances, referred to the director of trade-practice conferences for report in lieu of formal complaint if they relate to an industry which has had or which contemplates having a trade-practice conference for consideration of the unfair practices in point.

All proceedings prior to issuance of formal complaint or publication of a stipulation are confidential.

FORMAL PROCEDURE

Only after most careful consideration of the facts and evidence developed by the investigation does the Commission issue a complaint. The complaint and the answer of respondent thereto and subsequent proceedings are a public record.

A complaint is issued in the name of the Commission acting in the public interest. It names a respondent and charges a violation of law, with a statement of the charges. The party complaining to the Commission is not a party to the formal complaint issued by the Commission, nor does the complaint seek to adjust matters between parties; rather, the prime purpose of the proceedings is to prevent, for the protection of the public, those unfair methods of competition forbidden by the Federal Trade Commission Act and those practices prohibited by the Clayton and Export Trades Acts.

The Commission's rules of practice and procedure provide that in case the respondent desires to contest the proceedings he shall, within 20 days from service of the complaint, file with the Commission an answer to the complaint. The rules of practice also specify a form of answer for use should the respondent decide to waive hearing on the charges and not contest the proceeding.

Under the rules of practice, "failure of the respondent to file answer within the time * * * provided and failure to appear at the fixed time and place of hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint and make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist."

In a contested case the matter is set down for taking of testimony before a trial examiner. This may occupy varying lengths of time, according to the nature of the charge or the availability and number of witnesses to be examined. Hearings are held before a member of the Commission's staff of trial examiners, who may sit anywhere in the country, the Commission and the respondents being represented by their respective attorneys.

After the taking of testimony and the submission of evidence on behalf of the Commission in support of the complaint, and then on behalf of the respondent, the trial examiner prepares a report of the facts for the information of the Commission, counsel for the Commission, and counsel for the respondent. Exceptions to the trial examiner's report may be taken by counsel for either side.

Within a stated time after the trial examiner's report is made, briefs are filed, and the case is set for final argument before the Commission. Thereafter the Commission reaches a decision sustaining the charges made in the complaint, or dismissing the complaint, or closing the case.

If the complaint is sustained, the Commission states its findings as to the facts and conclusion that the law has been violated, and thereupon an order is issued requiring the respondent to cease and desist from such violation.

If the complaint is dismissed or closed, an appropriate order is entered.

An order to cease and desist is the Commission's final step in its legal procedure, except in cases which are taken to court.

CASES MAY BE TAKEN TO FEDERAL COURTS

No penalty is attached to an order to cease and desist as such, but a respondent against whom it is directed is required within a specified time, usually 60 days, to report in writing the manner in which the order is being obeyed. If the respondent fails to obey an order, the Commission may apply to a United States Circuit Court of Appeals for enforcement of its order, and failure to obey the court's enforcement order may result in the respondent being held for contempt of court and subjected to the consequent penalty of fine or imprisonment, or both. Also the respondent may petition for review. The statute provides that "such proceedings in the Circuit Court of Appeals shall be given precedence over other cases pending therein, and shall be in every way expedited." The circuit court has power to affirm, modify, or set aside an order of the Commission, but either party may apply to the United States Supreme Court for a writ of certiorari, through which, if granted, there may be obtained a review of the decision and judgment of the court of appeals and final adjudication of the matter at issue.

LEGAL INVESTIGATION

PRELIMINARY INQUIRIES PRIOR TO FORMAL COMPLAINT

The legal investigational work of the Commission is directed and supervised by the chief examiner, and includes the investigation of applications for complaint preliminary to formal action for the correction of unfair methods of competition or other unlawful practices under the laws administered by the Commission.

At the beginning of the last fiscal year there were pending for investigation by the chief examiner's staff 391 applications for coin-plaint in preliminary or undocketed cases of alleged unfair methods of competition.¹ During the fiscal year, investigation was made in 903 such cases. At the close of the fiscal year, there were pending for investigation 324 such applications for complaint.

Of the preliminary investigation cases, 256 were docketed after complete investigation, and 24 were docketed for further investigation, as regular Commission applications for complaint. With 220

¹ Statistics showing the number of Commission cases handled by the chief examiner's staff do not include cases of false and misleading advertising investigated by the special board of investigation.

Commission applications pending at the beginning of the year and 671 docketed for investigation without preliminary work, the total of applications docketed for investigation was 915. There were disposed of during the year 632 such applications, leaving 283 cases still pending at the close of this fiscal year.

Thus the Chief Examiner's Division during the fiscal year completed 1,535 investigations of preliminary and docketed applications for complaint alleging unfair methods of competition.

Several attorneys on the chief examiner's staff usually assigned to the investigation of applications for complaint were engaged during the year on the milk investigation which was begun near the close of the preceding fiscal year pursuant to House Concurrent Resolution No. 32, Seventy-third Congress, second session. Also several members of the staff were engaged during a portion of the year on the agricultural income inquiry pursuant to Public Resolution No.61, Seventy-fourth Congress, and the petroleum decree inquiry being made at the request of the Attorney General.

The Chief Examiner also conducts, by direction of the Commission or on request of other units of the Commission, supplemental investigations (1) in matters originating with the Special Board of Investigation (relating to false and misleading advertising) ; (2) where additional evidence is necessary in connection with formal complaints; (3) where it appears or is charged that cease-and-desist orders of the Commission are being violated, and (4) where it appears or is charged that stipulations entered into between the respondent and the Commission wherein the respondent agreed to cease and desist from certain unfair competitive practices are not being observed in good faith.

The legal investigation work of the Commission is directed from its central office in Washington and conducted through that office and four branch offices, located at 45 Broadway, New York City; 433 West Van Buren Street, Chicago ; 544 Market Street, San Francisco ; and 801 Federal Building, Seattle.

CONSOLIDATIONS AND MERGERS

CASES ARISING UNDER SECTION 7 OF THE CLAYTON ACT

The Commission and the Department of Justice have concurrent jurisdiction in the enforcement of section 7 of the Clayton Act which, in substance, makes it unlawful for a corporation to acquire capital stock in a competing corporation, or for a holding company to acquire capital stock of two or more corporations competing with one another, where the effect of such acquisitions may be to substantially lessen competition between the corporations involved, restrain commerce in any section or community, or tend to create a monopoly

of any line of commerce. This section, however, does not prevent consolidations or mergers of competing corporations brought about by the acquisition of the physical assets of such competing corporations. Because of this fact, the Commission has recommended that section 7 of the Clayton Act be amended so as to prohibit the acquisition or consolidation of assets to the same extent that stock acquisitions and consolidations are prohibited, and on the same ground.

Reorganizations, acquisitions, etc.--With respect to acquisitions, consolidations, and mergers during the year, there was some increase in activity in this field over the prior year. Among important developments were efforts relating to reorganization of large corporations on a basis of simplifying corporate set-up with a view to effecting economies in income taxes under the Internal Revenue Act of 1934, as amended by the act of August 30, 1935.

There was also considerable activity in effecting reorganization under section 77-B of the Bankruptcy Act of the United States with a view to avoiding liquidation of properties and businesses. Under section 77-B of the Bankruptcy Act, it is possible for reorganizing interests to transfer all or any part of the property to competing corporations, or effect a consolidation by way of exchange of stock without violating section 7 of the Clayton Act. During the year, two important acquisitions were effected under section 77-B of the Bankruptcy Act which received the consideration of the Commission but which were filed without docketing because it appeared that such acquisitions were legal under the statutes. One involved acquisition by the Goodyear Tire & Rubber Co. of the assets of the Kelly Springfield Tire Co., and the other the acquisition by National Gypsum Co. of the stock and assets of Universal Gypsum & Lime Co.

Cases acted on and those pending at close of year.--A survey of the Commission's work discloses that at the beginning of the fiscal year there were pending before the chief examiner's division 7 preliminary inquiries involving acquisitions, consolidations, and mergers ; 39 new inquiries were instituted during the year; 12 inquiries were pending at the close of the year, and 34 inquiries were disposed of during the year. The chief examiner recommended that all of these 34 matters be closed without docketing and that 2 be referred to the Department of Justice for further consideration under the Sherman Act.

Four of the 34 matters closed without docketing pertained to proposed acquisitions, consolidations, or mergers which failed of consummation; 1 involved internal reorganization ; 16 involved acquisition of assets, and 13 involved acquisition of capital stock.

The 16 matters involving acquisition or merger of assets were filed without docketing because of the Commission's lack of jurisdiction.

Twelve of the thirteen matters involving the acquisition of capital stock were filed without docketing because the acquisition did not result in a substantial lessening of competition, restraint of trade, or tendency toward monopoly, and the 13th was so filed because the capital stock acquisition was not effected by a corporation but by individuals identified with competing interests and under circumstances designed to circumvent the provisions of the law.

In 8 of the 13 matters involving the acquisition of capital stock and filed without docketing, the products were non competitive; in 2 the products were sold in noncompetitive territories, and in 7 the respective businesses of the interests involved were noncompetitive.

During the year the Commission docketed two matters as applications for complaint under section 7 of the Clayton Act; two were closed during the year, and no applications for complaint were pending at the close of the year.

One complaint involving section 7 of the Clayton Act was pending before the Commission at the beginning of the year; two were issued during the year; two were dismissed during the year, and one was pending at the close of the year.

At the beginning of the year there was pending before the Commission a complaint against the Van Kannel Revolving Door Co. of New York City, alleged to have acquired controlling stock in two competing companies, namely, the Atchison Revolving Door Co., Independence, Kans., and Revolving Doors, Inc., New York City. This complaint was dismissed during the year.

Complaints were issued during the year against Sterling Products, Incorporated, of New York City, engaged through subsidiaries in the manufacture and sale of medicines and pharmaceutical preparations, and against Laird & Co., of Scobeyville, N. J., engaged in the manufacture and sale of applejack brandy. The complaint against the Sterling Products Co. was pending at the close of the year, while that against Laird & Co. had been dismissed.

No orders of divestiture of capital stock were issued during the year and no section 7 Clayton Act matters were pending in the courts at the close of the year.

An order of divestiture had been issued against Vanadium-Alloys. Steel Co., of Latrobe, Pa., on February 3, 1934. Following appeal of the respondent company respecting inability to dispose of the capital stock of Colonial Steel Co., the Commission approved and entered during the year further orders extending the time for the sale of such capital stock to October 6, 1936.

CASES SETTLED BY STIPULATION

PROCEDURE PROTECTS THE CONSUMER FROM UNFAIR PRACTICES

An alternative to the Commission's formal complaint procedure in legal cases is the stipulation procedure which is made available in a large number of cases. It provides an opportunity for a respondent to voluntarily cease and desist from an unfair practice by signing a stipulation to that effect.

This procedure accomplishes, economically and expeditiously, in cases to which it is adapted, the same result as a complaint and order to cease and desist. It also expedites and simplifies the Commission's legal procedure, saves the Government and the respondent the greater expense of litigation incident to trial of a complaint, and makes possible the handling of a large number of cases in an expeditious way. The Commission believes this procedure protects the American consumer from numerous unfair methods of competition.

It frequently happens that a violation occurs through ignorance, and that the attention of the offender has only to be called to the fact to induce him to discontinue the practice. Instead of issuing a formal complaint, the Commission grants the individual or corporation complained against an opportunity to sign a stipulation to cease and desist from the practices charged. If this agreement is signed, further action is suspended; if it is not signed, the case goes to trial. It should be said, however, that whether a proposed respondent shall be given an opportunity to sign a stipulation is entirely within the Commission's discretion, and that this opportunity is never given where violations are especially malicious and to the serious injury of the public.

CASES AFFECT WIDE VARIETY OF BUSINESSES

Unfair trade practices discontinued as a result of stipulations comprise a wide variety of misleading representations affecting a large number of businesses. These practices are usually of a type which can be readily corrected through such a procedure. One of the most common practices appearing in these cases is for a distributor to advertise or otherwise make representations to the effect that he is a manufacturer so as to induce the purchaser to believe that in trading with such a distributor he is getting factory prices and saving a middleman's profit. This practice extends in similar application to many different lines, sometimes to a jobber of fabrics or dress goods advertising itself as a factory, or to a company dealing in medicinal preparations calling itself a "laboratory", or a correspondence school announcing itself as an "institute", "university", or

service training bureau”, thereby implying untruthfully by the last designation that it has a Government connection.

Other typical instances include: A knit-goods mill stipulating that it will no longer designate garments composed only partly of wool as “100 percent pure wool” or “100 percent virgin wool”; an importer of shoestrings agreeing not to label them as “mercerized” unless they have actually gone through that process, while the maker and seller of the shoes in which they are strung may be stipulating that they will not be stamped for example as “Dr. Brown” to indicate untruthfully that they are designed according to special orthopedic standards under a physician’s supervision, and so on.

Some firms have entered into stipulations to cease marking their domestic-made products as imported and others to stop labeling their foreign-made goods as “Made in U. S. A.”, the degree of misrepresentation depending on the consumer preference and goodwill created for a domestic-made or a foreign-made article.

The range of commodities mentioned in stipulation proceedings and other legal proceedings before the Commission suggests a list almost as long and varied as the material needs of humanity itself.

TOTAL NUMBER OF STIPULATIONS

Stipulations in which various individuals and companies agreed to cease and desist from unlawful practices charged were approved and accepted by the Commission during the last fiscal year in 335 instances, in addition to 555 stipulations of a special class involving false and misleading advertising,¹ making a total of 890 stipulations approved and accepted during the year, or a more than 100 percent increase over the total of 431 approved and accepted in the last preceding fiscal year.

During the 10 ½ years in which the stipulation procedure had been in effect on June 30, 1936, a total of 3,187 stipulations had been approved and accepted by the Commission, of which 1,755 were of the general class and 1,432 were of the special false and misleading advertising class. Fourteen of the total number of stipulations have been rescinded.

All stipulations are for the public record.

REPRESENTATIVE COMPLAINTS

INCREASE IN CASES INVOLVING UNFAIR METHODS OF COMPETITION

During the last fiscal year the Commission issued 386 complaints as compared with 280 issued during the last preceding year. All but

¹ The Commission's procedure in false and misleading advertising cases is described beginning on p.105.

five of these complaints charged violation of section 5 of the Federal Trade Commission Act through use of unfair methods of competition in commerce. The other five charged violation of the Clayton Act. Of the five Clayton Act cases, two were issued under section 2 of that act, one under section 3, and two under section 7.

COMPLAINTS UNDER THE FEDERAL TRADE COMMISSION ACT

False advertising and misrepresentation.--By far the greater number of complaints issued during the fiscal year charged false and misleading representations in advertisements, on labels, and otherwise. The number of complaints issued, based upon this charge, totaled 261. Sixty-one involved false and misleading advertising and misrepresentation of medicinal preparations, devices, diet courses, books, and other matters affecting health. In some of these cases, the misrepresentations, as charged, had a tendency to result not only in luring the afflicted into spending money for worthless or near-worthless drugs, but into purchasing preparations, the use of which in some cases actually endangers their health.

Next in order are 33 complaints charging the false representation that the respondent was a manufacturer of the goods sold. The materiality of the deception in this class of cases is that many persons deem it an advantage to deal directly with the manufacturer rather than through middlemen. Sixteen of this class represented that they were distillers of liquor, when in fact they were engaged only in rectifying and blending. Eighty-three complaints of this character, involving liquor dealers, were issued during the last fiscal year.

Next in numerical order were 28 complaints charging misrepresentation as to furniture, furnishings, and other household requisites. Next came misrepresentations as to toilet preparations and clothes and clothing materials.

Other commodities involved in complaints of this character included jewelry, serums, vacuum sweeper parts, stock feeds, cigars, monuments, wallboard, wines, gold leaf, tires, false teeth, motor oil, magazines, photos and enlargements, books, toys, nitrogen-fixing bacteria, dental supplies, bakery products, tooth brushes, batteries, farm implements, animal traps, bar fixtures, radios, candy, storage receptacles, hair restorers, and grave vaults.

Candy lottery cases.--Forty-four complaints were issued during the fiscal year against candy manufacturers and dealers alleged to be selling candies under a scheme involving an element of chance or lottery. In candy lottery cases heretofore heard by the Commission it has been found that the candy sold is often of inferior quality or the units smaller than candy sold by ordinary sales methods; that the candies are purchased largely by children or young

people, with the resulting demoralizing effect of the introduction of the element of chance, this practice having grown to such an extent as to seriously affect the candy trade.

Combinations to fix and maintain prices.--Sixteen complaints were issued charging violation of section 5 of the Federal Trade Commission Act by combination and conspiracy in restraint of trade and to control prices, usually by agreement among members of an industry upon minimum prices at which products would be sold, or fixing prices at uniform figures among the members. The agencies for establishing and making these combinations effective were usually trade associations. The commodities involved were candy and other confections, automobile parts and accessories, foodstuffs, electric cable and wire, polishing wheels, photo-engraving plates, tin plate, clothing, furniture, shoe soles, and lumber and other building materials and supplies.

Fraudulent selling and distributing schemes.--In this group are classified methods of selling and distributing which deceive dealers as to the nature of the contracts into which they are entering, and also misrepresentations as to the prospective earnings of salesmen, who are generally house-to-house canvassers, and other sales arrangements in which fraud and deception enter. Seventeen complaints of this class were issued during the year.

Miscellaneous cases under section 5, Federal Trade Commission Act.-Other complaints issued charged false disparagement of competitors or their goods ; methods of sale in which the element of chance appears (other than the candy lottery cases already referred to) ; threats of patent infringement suits not made in good faith, but in an attempt to intimidate competitors or their customers ; wrongful enticing of employees from the service of competitors; simulation to accomplish the passing off of a manufacturer's or dealer's goods as those of a competitor, and unlawful methods of resale price maintenance, usually referred to in the business world as "price stabilization."

COMPLAINTS UNDER THE CLAYTON ACT

One complaint issued under section 2 of the Clayton Act charged a safety razor corporation with price discrimination among its customers, not made in good faith to meet competition nor based upon a difference in grade, quality, or quantity, nor a difference in the cost of sale or cost of transportation.

Another proceeding under section 2 of the Clayton Act, and also under section 5 of the Federal Trade Commission Act, charged seven manufacturers of butter tubs with having entered into a combination and conspiracy to discriminate in price and terms in favor of certain purchasers, and to fix uniform prices.

The complaint issued under section 3 of the Clayton Act was against a manufacturer of optical lenses and alleged that this company sold lenses to the trade only upon the express agreement that the dealers would not sell or deal in optical lenses made by competitors of the respondent whose products were similar in tint, color, shade, or type, to its lenses.

One complaint under section 7 of the Clayton Act charged a distilling company with having acquired all of the capital stock of a competing distilling company, the alleged acquisition having the effect, it was charged, of ending competition between the two corporations. The other charged a manufacturer of toilet and pharmaceutical products with having acquired all the capital stock of a competing corporation, with the same probable effect.

REPRESENTATIVE CASES DESCRIBED

Unauthorized use of established names.--In two cases respondents were charged with trading upon the popularity of established trade unions in the publication and sale of magazines. In one the trade name adopted and the name of the magazine were, it was alleged, obviously designed to become confused with the International Sea-men's Union of America and its publication, Seamen's Journal, and the other with the American Federation of Labor and its 40-year-old publication American Federationist.

The Commission also continued during the year to proceed against the practice of a number of manufacturers or assemblers of radio receiving sets in labeling their products with the names of well-known sets and manufacturers, such as "Majestic International", "Victor International", "Edison Radio Stores", "Victor Radio Stores." Seven of these complaints were issued during the year.

Second-hand hat cases.--In three complaints issued on the allegation of false and misleading advertising and misrepresentation, the unfair method charged was a failure to disclose facts rather than make affirmative misrepresentation. It was charged that the respective respondents bought up used, discarded felt hats. One respondent reconditioned the hats, fitted them with new ribbons and sweat bands and sold them to the trade. The other two made the reconditioned felt into baseball caps which were sold to the trade. In none of these cases was the second-hand character of the headwear disclosed, according to the complaints.

Cap association case.--Among the complaints charging a violation of section 5 of the Federal Trade Commission Act by combination and conspiracy to suppress price competition was one against an association composed of some 190 cap manufacturers, and another association comprising some 80 manufacturers of uniform caps. Many

cap manufacturers maintain memberships in both associations. The output of the members of these two associations constitutes practically all of the caps and uniform caps manufactured in the United States.

It was charged that these manufacturers, cooperating through and with their respective associations, united in a common course of action and cooperated to fix and establish uniform prices at which members of the associations would sell uniform caps, and to prevent others from selling at lower prices. In furtherance of this purpose, it was charged, a pledge or promise was exacted and secured from each member and from manufacturers of cap visors and trimmings that they would adhere to and support this program ; so-called blacklists were circulated among members and visor manufacturers containing the names of those cap manufacturers who refused to conform to the prices fixed, and, according to the complaint, by threats of boycott and by actual boycott they sought to and did prevent visor manufacturers from selling to uniform cap manufacturers who were not members of the association.

Alleged restraint of trade by lumber group.--A similar case was against a State association of handlers of lumber, building material, and builders' supplies. The active membership consisted of retail dealers, while the associate membership included producers and processors, wholesalers, distributors, and jobbers--63 in number. It was alleged that the members constituted a large and important part of the dealers in the State, sufficiently large to enable the association to influence and control the flow of trade and commerce in such materials within, into, and from the State.

It was alleged that the real purpose and activity of the association was to constitute its membership a class of "recognized and cooperating" dealers and to require and confine the sale and distribution of such materials and supplies to and through such membership; to compel producers and manufacturers to refrain from selling to nonrecognized and noncooperating dealers ; to compel dealers to purchase only through members of the association, and thus tend to give members of the association a monopoly of this business.

Women's garment manufacturers' guild.--Another complaint of this character was issued against a large New York association of ladies' garment manufacturers and textile merchants, also three affiliated local guilds in Chicago, Minneapolis, and Baltimore, a New York textile federation, numbering about 100 converters, dealers, printers, and manufacturers of silk and rayon fabrics.

The principal association or guild was composed of approximately 180 ladies' garment manufacturers, textile merchants who supplied textiles to the manufacturers of women's garments, and affiliate members who were retailers of women's garments. There was also a division of "protective affiliates" who were nonmember manufac-

turers of women's garments cooperating in the style-protection program of the guild. The principal purpose of the guild was claimed to be the protection of originators of fashions and Styles against copying and piracy.

The charge was that the respondents entered into an agreement, combination, and conspiracy with each other and with other persons to hinder and suppress competition in the sale and distribution in interstate commerce of textile fabrics to manufacturers of women's and misses' garments, and to hinder and suppress competition between manufacturers of such garments in their sale to retail dealers ; to restrain trade in textile fabrics and such garments and to create a monopoly in the manufacture and sale of such fabrics and garments in the members and affiliated members of the guild.

The result of this combination and conspiracy, it was alleged, has been to prevent and hinder importers, converters, and manufacturers of textile fabrics from selling their merchandise in inter-state commerce ; to prevent retail dealers in women's garments from purchasing their requirements in interstate commerce ; to substantially increase the price of women's garments to manufacturers, to retail dealers, and the public ; and to place in the hands of the guild the control of business practices of the manufacturers and distributors of women's garments and the power to exclude from the industry those manufacturers and distributors who did not conform to guild requirements, thus tending to create a monopoly in the guild and its members.

Alleged fraudulent sale of a cold-water paint--Among the complaints hereinbefore classified under the heading of fraudulent schemes of selling and distribution was one against a group engaged in the sale and distribution of a lithopone casein paint, sometimes called a cold-water paint. It was charged that this respondent company employed a plan or scheme by means of which it induced dealers to enter into contracts to become sole distributors in a defined territory, under which the dealers were induced to buy large stocks of this paint, for which there was no dealer or consumer demand, and to buy it at excessive prices.

Under the scheme, it was alleged, established dealers of sound financial rating, preferably those not then carrying paints for sale, were contacted and offered the sole distributorship for their particular locality. The respondent company's representatives, it was alleged, would then make misrepresentations concerning the standing and financial ability of the respondent; demonstrate the use of paint; make misrepresentations concerning its quality, and the dealer and consumer demand therefor, and the terms and conditions upon which the paint would be sold to the dealer.

A prospective dealer, it was alleged, then would be invited to visit the New York office of the respondent company where similar demonstrations and misrepresentations were made, including plans for financing the dealer under his contract.

Among misrepresentations alleged to have been made by the representatives and confirmed by the officials at the home office were that the respondent company would organize a competent sales force for the dealer and instruct him in soliciting orders and would turn over to the dealer all inquiries and orders received directly by the respondent; that the company would furnish various forms of advertising matter to the dealer, and the dealer was in effect to do little more than warehouse and distribute the paint as orders came to him. Then, having secured a dealer's order and a trade acceptance from him, it was the practice, according to the complaint, to negotiate and transfer this paper to cut off any equities the dealer might have by reason of the misrepresentations.

CASES PENDING AT CLOSE OF YEAR

At the close of the fiscal year there were pending 419 complaints in various stages of advancement.

ORDERS TO CEASE AND DESIST

UNFAIR TRADE PRACTICES PROHIBITED IN 161 CASES

The Commission issued 161 orders to cease and desist from the use of unfair methods of competition and other violations of law during the fiscal year, as compared with 126 issued during the last fiscal year. The list is as follows:

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Acfield, Inc., O. R.	New York City.
Acme Cotton Products Co., Inc	Do.
Alden Co., John, and others	Chicago.
Allen Corporation, C. S., and others	Brooklyn, N. Y.
American Army and Navy Store	Washington, D.C.
American Sheet and Tin Plate Co., and others	Pittsburgh.
American Shell Products Co	Muscatine, Iowa.
American White Cross Laboratories, Inc	New Rochelle, N. Y.
Amo-Line Co., and others	Canton, Ohio.
Arco Shirt Corporation	New York City.
Armstrong Rubber Co., Inc	West Haven, Conn.
Army and Navy Trading Co	Washington, D. C.
Arte Products Co., Inc	New York City.
Associate British Manufacturers	Do.
Atlas China Co., Inc	Brooklyn, N. Y.

<i>Respondent</i>	<i>Location</i>
Baker Paint and Varnish Co	Jersey City, N. J.
Banner Novelty Co	Chicago.
Benson Studios, Inc., S., and others	New York City.
Benton Novograph Co	Buffalo.
Berkshire Textile Co	Binghamton, N. Y.
Best and Co	New York City.
Billings-Chapin Co	Cleveland.
Birmingham Automotive Jobbers Association and others	Birmingham, Ala.
Blind Weavers, Inc	Chicago.
Brenner Paper Manufacturing, Inc	New York City.
Bronson Shoe Co	Minneapolis.
Cal-Aspirin Corporation	Chicago.
Cameo Silk Mills, Inc	New York City.
Cannaday, Dr., J. E	Sedalia, Mo.
Canton Silk Mills, Inc	New York City.
Cape Cod Shirt Co	Fall River, Mass.
Carlsbad Products Co. Inc	New York City.
Catonsville Distilling & Distributing Co	Catonsville, Md.
Certified Products Co., Inc., and others	Birmingham, Ala.
Chicago Silk Co	Chicago.
Climax Rubber Co	Brooklyn, N. Y.
Colombo Extract Co	Do.
Commercial Extension University, and others	Omaha, Nebr.
Commercial Manufacturing Co., and others	Iowa City, Iowa.
Commercial Silk Mills	New York City.
Consolidated Trading Corporation	Do.
Crescent Shoe Co., Inc	Do.
Cronin China Co., Publicity Dept., and others	Chicago.
Davis Knitting Mills, Inc., and others	Brooklyn, N. Y.
Dennison Brothers, Inc	New York City.
Diamond Match Co	Do.
Dispensary Supply Co., Inc	Do.
Dobe School of Drafting, and others	Libertyville, Ill.
Eastern Textile Co	Greenfield, Mass
Eton Knitting Corporation	New York City.
Economy Rubber Products Co	Dayton, Ohio.
Edes Manufacturing Co., and others	Plymouth, Mass.
Edwin Cigar Co., Inc., and others	New York City.
Electric Magnetic Belt Co., and others	Minneapolis.
Everfresh Products Co	Washington, D. C.
Excelsior Silverware Corporation	New York City.
F. & S. Manufacturing Co	Do.
Falcon Camera Co	Detroit.
Famous Pure Silk Hosiery Co	Newark, N. J.
Federal Distilled Products	Milwaukee.
Fyr-Fyter Co., and others	Dayton, Ohio.
General Handkerchief Mfg. Co., Inc	Chicago.
General Implement Co. of America., Inc., and others	Cleveland.
General Tire and Rubber Co	Akron
Goodyear Tire and Rubber Co	Do.

<i>Respondent</i>	<i>Location</i>
Gotham Aseptic Laboratory Co., Inc	Long Island City, N. Y.
Gotham Sales Co., and others	New York City.
Gottlieb Brothers Manufacturers of Silk Underwear, Inc	Do.
Greenberg & Josefsberg, and others	Do.
Grove Distillers & Wine Co., Inc	Jersey City, N. J.
Hollywood Candy Co	Minneapolis.
Home Drug Co	Do.
Humania Hair and Specialty Mfg. Co	New York City.
Huntley Furniture Co., B. F	Winston-Salem, N. C.
Imperial laboratories	New York City.
International Sheffield Works Inc	Do.
International Tableware Co	Detroit.
Johnson Manufacturing Co., and others	Birmingham, Ala.
Jones Brothers Publishing Co	Arbor Place, Norwood,
Ohio.	
K & E DeLuxe Padded Van Co., Inc., and others	New York City.
K-W Graphite Corporation	Kansas City, Mo.
Kotalko Sales Co	New York City.
Leach and Co., G	Pittsburgh.
Leading Perfumers and Chemists, Inc	New York City.
LeGay, Inc	Chicago.
Linen Supply Association of the District of Columbia and others	Washington, D. C.
Lur-Eye Products, Inc	New York City.
Maxwell Steel Vault Co	Oneida, N. Y.
Mayers Company, Inc., L. & C	New York City.
McCreery and Co., James	Do.
Mendell, Alfred	Ozone Park, N. Y.
Mid West Mills, Inc	Chicago.
Modex Mills Co	New York City.
More Co., Robert	Chicago.
Mormiles	Peoria, Ill.
Morris, Charles E	New York City.
Morris Shoe Co., Inc	Do.
National Remedy Co	Do.
National Silver Co	Do.
Natural Body Brace Co., and others	Salina, Kans.
New England Collapsible Tube Co., and others	New London, Conn.
New York State Wholesale Confectionery Association. Inc., and others	Watertown, N. Y.
Newark Felt Novelty Co., Inc	Newark, N. J.
Norris Co., Louise	Kansas City, Mo.
North Shore Cement Burial Vault Co	Kenosha, Wis.
Nu-Way Shoe Co	New York City.
Oakland Shingle Co	Edmonds, Wash.
Old Trusty Dog Food Co	Needbann Heights, Mass.
Park Row Pen CO., and others	New York City.
Peters Serum Co	Kansas City, Mo.
Philadelphia Badge Co	Philadelphia.
Pioneer Maple Products Co	St. Paul.

Piatell Shoe Co

New York City.

<i>Respondent</i>	<i>Location</i>
Poindexter and Sons Merchandise Co., H. T	Kansas City, Mo.
Pratt Food Co	Philadelphia.
Prince Matchabelli Perfumery, Inc	New York City.
Pyrene Manufacturing Co	Newark, N. J.
Quality Shingle Co., Inc., and others	Edmonds, Wash.
Radiator Specialty Co	Charlotte, N. C.
Rayson Service Bureau, and others	Denver, Colo.
Real Products Corporation, and others	Long Island City, N. y.
Renesol Corporation, and others	New York City.
Roma Wine Co., Inc	San Francisco.
Roselile Manufacturing Co., and others	Chicago.
Rubber Manufacturers Association, Inc., and others	New York City.
Samac Knitting Mills	Do.
Schoeck School, O. F	Alton, Ill.
Scientific Shamey Co., Inc	New York City.
Security Silverware Distributors, Inc., and others	Chicago.
Sessions Clock Co	Forestville, Conn.
Shapiro Felt Rug Co., and others	Newark, N. J.
Sheaffer Pen Co., W. A	Fort Madison, Iowa.
Sissell Brothers	Los Angeles.
Speidel Corporation	Providence, R I.
Stetson Pants Co	Cincinnati, Ohio.
Tee and Emm Knitting Mills	New York City.
Terrell, Reta	Chicago.
Thomasville Chair Co	Thomasville, N. C.
Thompson, Inc., W. J.	New York City.
Tivoli Clothes, and others	Do.
Union Pencil Co., Inc	Do.
United Artists and Engravers Guild, Inc	Chicago.
United Distilling Co	Cincinnati, Ohio.
United States Electric Manufacturing Corporation	New York City.
Universal Extract Co., Inc	Brooklyn, N. Y.
Universal Ink Co	New York City.
Vasco Products, Inc., and others	Brentwood, Md.
Victor Soap Co	Dayton, Ohio.
Warner Studios	Washington, D. C.
Westbury Knitting Mills	New York City.
Westphalia Manufacturing Co., Inc., and others	Jersey City, N. J.
White Cross Laboratories, Inc	Chicago.
Wholesale Radio Service Co., Inc	New York City.
Williams Brothers Tailoring Corporation	Troy, N. Y.
Wilshire Woolen Co	New York City.
Winona Monument Co	Winona Minn.
Wong, Philip	Cambridge, Mass.
Wyoming Valley Jobbers Association, Inc., and others	Nanticoke, Pa.
X Laboratories, Inc	New York City.

DESCRIPTIONS OF OUTSTANDING CASES

Some illustrative orders to cease and desist issued during the fiscal year are described as follows:

CANDY LOTTERY

F. A. Martoccio Co., Minneapolis, trading as Hollywood Candy Co. ordered to cease and desist from selling, in interstate commerce, to wholesale dealers and jobbers, for resale to dealers, candy so packed and assembled that sales to the public are to be, or may be made, by means of a lottery, gaming device or gift enterprise; supplying, through interstate commerce, to wholesalers and jobbers a “punch board” or “push card”, either with assortments of candy or separately, bearing a legend informing the purchasing public that the candy is being sold by lot or chance or in accordance with a sales plan, gaming device, or gift enterprise.

FALSELY REPRESENTING MEN’S SUITS TO BE MADE-TO-ORDER

Williams Bros. Tailoring Corporation, New York City; ordered, in connection with the sale of men’s clothing in interstate commerce, to cease and desist from representing, contrary to the facts, that its suits are made to the measure of purchasers, and from neglecting to refund promptly to purchasers money received for clothes falsely represented to be made-to-measure or failing to come up to representations or guarantee as to fabric, fashion, fit, or wearing qualities.

MISREPRESENTATION OF A BUSINESS AS CHARITABLE INSTITUTION

The Blind Weavers, Inc., Chicago, sold in interstate commerce, direct to the purchasing public, machine-made chenille rugs purchased by it in the open market. Findings were that after purchasing these rugs, this respondent organization employed blind persons to do “fringe-tying”, the cost of which was negligible as a part of the rug making. The respondent company is also said to have sold rugs woven in its own plant, six of the eight employees on this work having been blind persons.

In selling both the purchased rugs and those woven in its own factory, the respondent company was found to have used labels, tags, advertising circulars, stationery, and mailing matter bearing a portion of the corporate name so designed as to misrepresent itself as a charitable institution for the blind. Also,

according to findings, the credentials furnished its agents and salesmen contained the same misrepresentation.

The Commission's order required the respondent company to cease employing such false representations, to cease advertising machine-

made chenille rugs for sale without disclosing in such advertisements that they were not woven by the blind, and to stop selling such chenille rugs without a tag affixed making such disclosure.

COMBINATIONS TO FIX PRICES AND RESTRAIN TRADE

New York State Wholesale Confectionery Association, Inc., Syracuse, N. Y., and others.--An order to cease and desist was issued against the association and 16 local or regional associations affiliated with it, restraining them from combining, conspiring or uniting in a common course of action to prevent competing dealers in confectionery from obtaining their Supplies of such products directly from the manufacturers thereof; publishing so-called "white lists" containing only the names of so-called legitimate, regular or "recognized" dealers, brokers, distributors, or wholesalers of such products; conspiring or uniting to fix prices at which such products should be sold, and using any other cooperative or coercive means to suppress competition in price.

American Sheet & Tin Plate Co., Pittsburgh, and others.--An order to cease and desist was issued against the American Sheet & Tin Plate Co. (now Carnegie-Illinois Steel Corporation), Bethlehem Steel Co., Bethlehem, Pa. Jones & Laughlin Steel Corporation, Pittsburgh; Republic Steel Corporation, Cleveland; Weirton Steel Co., Weirton, W. Va.; Wheeling Steel Corporation, Wheeling, W. Va.; Youngstown Sheet & Tube Co., Youngstown, Ohio, and other steel companies, restraining them from entering into agreements with one another not to sell or quotes prices in interstate commerce on "stock plate"; from refusing pursuant to agreement to sell stock plate to jobbers and manufacturers of tin cans and other metal containers, and from entering into agreements to cut up or otherwise mutilate stock plate for the purpose of classifying it as "waste-waste" for domestic sale, at the same time offering it for sale in foreign countries without mutilation.

"Stock plate" is identified in the order as "warming-up" sizes, over-runs and seconds, resulting from the manufacture of the first grade of tin plate known as "production plate."

"Waste-waste" is tin plate so defective as not to qualify as "seconds." This order was issued upon findings of fact based upon answers filed by the respondents admitting the material allegations of the complaint.

MISREPRESENTATION OF CIVIL SERVICE PREPARATORY COURSE

An order was issued against Ray and Martha Rennison, of Denver, Colo.,

conducting a course of study preparing applicants for civil-

service examinations, and operating under the names Rayson Service Bureau, Rayson Bureau, and Rayson Service.

The order restrained the respondents from including in their "follow-up" or other advertising matter relating to their forestry course any reference to national forests, the Federal Forest Service or positions in that Service unless and until the United States Civil Service Commission should have resumed the announcement of examinations for the position of ranger in the United States Forest Service or, in the alternative, the respondents should have declared in each piece of such advertising matter that their course was neither adapted nor designed to aid students in obtaining positions as ranger in the United States Forest Service.

The order also prohibited the offering of any course of instruction without disclosing the educational, physical, personal, residence, experience and other requirements or restrictions imposed upon applicants for these positions, and use of the word "bureau" unless the respondents should have disclosed that they were not connected with any branch of the Federal or any State Government.

The respondents were directed to cease representing that they guaranteed an appointment, or refunded the fee paid, except when they explained that the student was not entitled to a refund unless he had failed in each examination in preparation for which he had purchased a course. The order also banned implications in advertising or correspondence that Government positions were available generally or that examinations therefor were frequent or soon to be held, unless such was actually the case, and that the respondents were seeking employees to fill Government positions or could offer such positions to those who answered advertisements.

PRICE DISCRIMINATION-GOODYEAR TIRE & RUBBER CO. CASE

Goodyear Tire & Rubber Co., Akron, Ohio.--The Commission on March 5, 1936, entered its order against the Goodyear Tire & Rubber Co., of Akron, Ohio, its subsidiaries, and their officers and agents, directing them to cease and desist from discriminating in price between Sears, Roebuck & Co. and Goodyear's retail dealer customers, by selling automobile tires to Sears; Roebuck & Co. at net realized prices lower than the net realized prices at which it sold the same sizes of tires of comparable grade and quality to independent retail dealers.

The order required that in arriving at the net realized prices, the respondent "take into account and make due allowance, and only due allowance, for differences in the cost of transportation and selling tires to individual tire

dealers on the one hand and Sears, Roebuck & Co. on the other.”

The Commission found that the Goodyear Co., since about 1914, had distributed for resale in the several States the great bulk of its pneumatic rubber tires through approximately 25,000 retail dealers; that on March 8, 1926, it entered into a contract with Sears, Roebuck & Co., by which Goodyear would manufacture and sell to Sears, Roebuck & Co. the latter's entire requirements on a cost-plus 6-percent-profit basis, and that this contract was renewed on May 17, 1928, and again on October 5, 1931

It was found also that on October 5, 1931, date of the last tire contract, a secret agreement was entered into by which the Goodyear Co. assigned to Sears, Roebuck & Co. 18,000 shares of the Goodyear Co.'s common stock, and \$800,000 in cash, to be used in the purchase of 32,000 additional shares of Goodyear common stock, as a consideration for signing the third tire contract without opening it to competition. It was found further that, pursuant to the terms of the several tire contracts, the net average sales price discrimination as between Sears, Roebuck & Co. and other dealers, over the entire period, varied from 29 percent to 40 percent on eight sizes of tires, or an aggregate of \$41,000,000 on all sizes.

It was found further that such discriminatory prices were not given to Sears, Roebuck & Co. on account of differences in quantity or quality of the commodity sold, nor to make only due allowance for differences in the cost of selling or transportation, nor made in good faith to meet competition.

Findings also were that Sears, Roebuck & Co., because of such discriminatory prices, was able to undersell, at a profit, other retail tire distributors at prices from 20 percent to 25 percent lower than the prices for tires of comparable grade and quality sold by retail dealers generally; except in 1933, when they were 10 percent lower, and that this was a major factor in driving out of business a large number of retail tire dealers and small tire manufacturers who supplied such retailers.

In this case, the original complaint was ordered September 13, 1933, and an amended complaint the following March. Hearings were closed March 18, 1935. The record consists of more than 26,000 pages of testimony and 23,000 exhibits.

Counsel for the Goodyear Co. have petitioned the United States Circuit Court of Appeals for the Sixth Circuit, Cincinnati, to review the Commission's findings and order. (See p.78.)

TYPES OF UNFAIR COMPETITION

PRACTICES CONDEMNED IN ORDERS TO CEASE AND DESIST

Following is a partial list of unfair methods of competition which have been
Condemned by the Commission in orders to cease and

desist issued during the fiscal year. These do not include violations of the Clayton Act embracing price discrimination, tying contracts, corporate stock acquisitions, and interlocking directorates. The list follows:

1. Use of false and misleading advertising, false branding and labeling of products, for example:

(a) Use of the term “gold shell” to describe jewelry containing a very thin deposit of gold by electro-plating or electrolytic process.

(b) Use of misrepresentations importing that paint offered for sale has been made in conformity with formulae, specifications, or requirements of the United States Navy or the United States Government, or has been approved, tested, or adopted by the Navy or the Government.

(c) Representing extracts to be imported when they are in fact domestic-made.

(d) Representing automobile tires to be “reconstructed” when the reconditioning is limited to the repair of worn or damaged portions.

(e) Using the word “doctor” in connection with Shoes not made in accordance with the design or under the supervision of a doctor or not having Scientific or orthopedic features which are the result of medical advice or Services.

(f) Misrepresenting that a preparation for the hair with impart color other than as the result of dyeing.

(g) Use of the word “Sheffield” in connection with silverware not made or manufactured in Sheffield, England, in accordance with the process used by the silversmiths of Sheffield.

(h) Misrepresenting the wood of which furniture is made.

(i) Misrepresenting dairy feeds by stating that the use of this feed decreases the amount of feed necessary; that the milk produced from such feed is purer, richer, more nutritious, has increased vitamin content; that it produces superiodized milk; that hospitals and Similar institutions are paying a premium for Super iodized milk and that this feed makes it possible for any dairyman to produce the required superiodized milk.

(j) Representing candy to be flavored and colored with juice of a fruit when in fact it is synthetically flavored and colored.

(k) Misrepresenting surgical Supplies as being sterilized and packed under Sanitary conditions when such is not the fact.

(l) Labeling wines of domestic make from domestic-grown grapes with the names of famous French wines.

2. Simulating the containers in which merchandise of competitors is customarily packed and displayed, and passing off goods therein contained as the product of competitors.

3. Representing the prices at which goods are offered for sale as wholesale prices when they are in fact as high or higher than regular retail prices of the same or comparative goods.

4. Use of puzzle contests with the representation that the mere solution of the puzzle entitles the successful contestant to a prize, when in fact other services and requirements are imposed upon the contestant.

5. In advertising for house-to-house canvassers or sales agents, mis-representing the prospective profits and the usual retail prices of the products which they are to sell.

6. Combining, agreeing, and cooperating to control the solicitation for business and allocation of customers; maintaining uniform prices, terms, and conditions; exchanging information regarding contemplated price changes, and by other cooperative means suppressing competition among those in the combination.

7. Misrepresenting the advantage to prospective customers in dealing with the seller by--

(a) Representing that the seller is a manufacturer of the products he offers and that middlemen's profits are thereby eliminated;

(b) Representing that the seller is a wholesaler and is offering his goods at wholesale prices;

(c) Misrepresenting the size and importance of the seller's business by the use of illustrations of fictitious buildings, or exaggeration of the space occupied by the seller's business, or the extent and value of his equipment;

(d) Misrepresenting that the seller's line of farm implements and tools is the most complete line manufactured and has been on the market for a longer period than is the fact, and that he has an engineering department for experimentation and testing;

(e) Misrepresenting the volume of business done by the seller;

(f) Listing ordinary clerical help, in connection with a correspondence course of study, as "Home office registrar", "Supervisor of aeronautical department", etc.

8. Misrepresenting the geographic location of the place of manufacture of a product by specifying a place famous for such product.

9. Use of fictitious prices; for example, representing that the usual or ordinary sale place is actually higher than the price at which the goods are offered, when such is not the fact.

10. Use of false representations for the purpose and with the effect of enticing persons from the employ of competitors into the employ of the user of the method.

11. Misrepresenting the financial condition, or the business policy, or the quality of the product of a competitor, or otherwise disparaging a competitor's product.

12. Manufacturing and selling hats and caps made from used and reconditioned felts without disclosing the second-hand character of the material.

13. Using a method of sale involving an element of chance or lottery or preparing goods so that such a method of sale may be used.

GENERAL LIST OF UNFAIR COMPETITIVE PRACTICES

The following list illustrates unfair methods of competition condemned by the Commission from time to time in its orders to cease and desist. This list is not limited to orders issued during the last fiscal year.

1. The use of false or misleading advertising, calculated to mislead and deceive the purchasing public to their damage and to the injury of competitors.

2. Misbranding of fabrics and other commodities respecting the materials or ingredients of which they are composed, their quality, purity, origin, source or qualities, properties, history, or nature of manufacture, and selling them under such names and circumstances that the purchaser would be misled in these respects.

3. Bribing buyers or other employees of customers and prospective customers, without the latter's knowledge or consent, to secure or hold patronage.

4. Procuring the business or trade secrets of competitors by espionage, or bribing the employees, or by similar means.

5. Inducing employees of competitors to violate their contracts and enticing away employees of competitors in such numbers or under such circumstances as to hamper or embarrass the competitors in the conduct of their business.

6. Making false and disparaging statements respecting competitors' products, their value, safety, etc., and competitors' business, financial credit, etc., in some cases under the guise of ostensibly disinterested and specially informed sources or through purported scientific but in fact misleading demonstrations or tests.

7. Widespread threats to the trade of suits for patent infringement arising from the sale of alleged infringing products of competitors, such threats not being made in good faith but for the purpose of intimidating the trade and hindering or stifling competition, and claiming and asserting, without justification, exclusive rights in public names of unpatented products.

8. Trade boycotts or combinations of traders to prevent certain wholesale or retail dealers or certain classes of such dealers from

procuring goods at the Same terms accorded to the boycotters or conspirators, or to coerce the trade policy of their competitors or of manufacturers from whom they buy.

9. Passing off goods or articles for well and favorably known products of competitors through appropriation or simulation of Such competitors' trade names, labels, dress of goods, etc., with the capacity and tendency unfairly to divert trade from the competitors, and/or with the effect of so doing to their prejudice and injury and that of the public.

10. Selling rebuilt, second-hand, renovated, or old products or articles made from used or second-hand materials as and for new.

11. Paying excessive prices for supplies for the purpose of buying up same and hampering or eliminating competition.

12. Using concealed subsidiaries, ostensibly independent, to secure competitive business otherwise unavailable.

13. Using merchandising schemes based on a lot or chance.

14. Cooperative schemes and practices for compelling wholesalers and retailers to maintain resale prices fixed by a manufacturer or distributor for resale of his product.

15. Combinations or agreements of competitors to enhance prices, maintain prices, bring about substantial uniformity in prices or to divide territory or business, to cut off competitors' sources of supply, or to close markets to competitors, or otherwise restrain or hinder free and fair competition.

16. Various schemes to create the impression in the mind of the prospective customer that he or she is being offered an opportunity to make a purchase under unusually favorable conditions when such is not the case, with capacity and tendency to mislead and deceive many of the purchasing public into buying products involved in such erroneous belief, and/or with the effect so to do, to the injury and prejudice of the public and of competitors, such schemes including--

(a) Sales plans in which the seller's usual price is falsely represented as a Special reduced price made available on some pretext for a limited time or to a limited class only.

(b) The use of the "free goods" or Service device to create the false impression that something is actually being thrown in without charge, when as a matter of fact, it is fully covered by the amount exacted in the transaction as a whole.

(c) Use of misleading trade names calculated to create the impression that a dealer is a manufacturer or grower, importer, etc., selling directly to the consumer with resultant savings.

(d) Use of pretended, exaggerated retail prices in connection with or upon the containers of commodities intended to be sold as bargains at lower figures.

17. Imitating or using standard containers customarily associated in the mind of the general purchasing public with standard weights or quantities of the product therein contained, to sell the public such commodity in weights or quantities less than the aforementioned standards, with capacity and tendency to deceive the purchasing public into believing that they are purchasing the quantities generally associated with the standard containers involved, and/or with the effect of so doing, and with tendency to divert trade from and other-wise injure the business of competitors who do not indulge in such practices and/or with the effect of so doing, to the injury of such competitors and to the prejudice of the public.

18. Concealing business identity in connection with the marketing of one's product, or misrepresenting the seller's relation to others; e.g., claiming falsely to be the agent or employee of some other concern or failing to disclose the termination of such a relationship in soliciting customers of such concerns, etc.

19. Misrepresenting in various ways the advantages to the prospective customer of dealing with the seller, with the capacity and tendency to mislead and deceive many among the consuming public into dealing with the person or concern so misrepresenting, in reliance upon such supposed advantages, and to induce their purchases thereby, and/or with the effect of so doing, to the injury and prejudice of the public and of competitors, such as--

(a) Misrepresenting seller's alleged advantages of location or size.

(b) Making false claim of being the authorized distributor of some concern.

(c) Alleged endorsement of a concern or product by the Government or by nationally known business organizations.

(d) False claim by a dealer in domestic products of being an importer, or by a dealer of being a manufacturer, grower or nursery, or by a manufacturer of some product of being also the manufacturer of the raw material entering into the product.

(e) Claiming to be a manufacturer's representative and outlet for surplus stock sold at a sacrifice, etc., when such is not the fact.

(f) Representing that the seller is a wholesale dealer, grower, producer, or manufacturer, when in fact such representation is false.

20. Use by business concerns associated as trade organizations or otherwise of methods which result, or are calculated to result, in the observance of uniform prices or practices for the products dealt in by them, with consequent restraint or elimination of competition, such as use of various kinds of so-called standard-cost systems, price lists or guides, exchange of trade information, etc.

21. Obtaining business through undertakings not carried out and through dishonest and oppressive devices calculated to entrap and coerce the customer or prospective customer, with the result of deceiving the purchasing public and inducing purchases by many thereof, and of diverting and tending to divert trade from competitors who do not engage in such false, misleading and fraudulent representations, all to the prejudice and injury of the public and competitors, such practices including--

(a) Obtaining by deceit prospective customer's signature to a contract and promissory note represented as simply an order on approval;

(b) Obtaining agents to distribute the seller's products through promising to refund the money paid by them should the product prove unsatisfactory, and through other undertakings not performed.

22. Giving products misleading names so as to give them a value to the purchasing public or to a part thereof which they would not *other-wise* possess, with the capacity and tendency to mislead the public into purchasing the products concerned in the erroneous belief thereby induced, and with the tendency to divert and/or with the effect of diverting business from and otherwise injuring and prejudicing competitors who do not engage in such practices, all to the prejudice of the public and of competitors, such as names implying falsely that

(a) The particular products so named were made for the Government or in accordance with its specifications and of corresponding quality, or are connected with it in some way, or in some way have been passed upon, inspected, underwritten, or endorsed by it; or

(b) They are composed in whole or in part of ingredients or materials, respectively, contained only to a limited extent or not at all; or

(c) They were made in or came from some locality famous for the quality of such products; or

(d) They were made by some well and favorably known process, when, as a matter of fact, they were only made in imitation of and by a substitute for such process; or

(e) They have been inspected, passed, or approved after meeting the tests of some official organization charged with the duty of making such tests expertly, disinterestedly, or giving such approval; or

(l) They were made under conditions or circumstances considered of importance by a substantial part of the general purchasing public; or

(g) They were made in a country, place or city considered of importance in connection with the public taste, preference or prejudice.

23. Selling below cost, with the intent and effect of hindering, stifling and suppressing competition.

24. Dealing unfairly and dishonestly with foreign purchasers and thereby discrediting American exporters generally, with the effect of bringing discredit and loss of business to all manufacturers and business concerns engaged in and/or seeking to engage in export trade, and with the capacity and tendency to do so, to the injury and prejudice of the public and of the offending concerns' export-trade competitors.

25. Coercing and enforcing uneconomic and monopolistic reciprocal dealing.

26. Entering into contracts in restraint of trade whereby foreign corporations agree not to export certain products into the United States in consideration of a domestic company's refusal to export the same commodity or sell to anyone other than those who agree not to so export the same.

27. Giving products a purported unique status or special merit or properties through pretended but in fact misleading and ill-founded demonstrations or scientific tests, or through misrepresenting the history or circumstances involved in the making of the products, so as to give them a value to the purchasing public or to a part thereof which they would not otherwise possess, with the capacity and tendency to mislead the public into purchasing the products concerned in the erroneous beliefs thereby engendered, to the prejudice and injury of competitors and the public, as hereinabove set forth.

CASES IN THE FEDERAL COURTS

COMMISSION ACTIONS IN THE UNITED STATES COURTS

Federal Trade Commission cases pending in the United States courts for final determination during or at the close of the fiscal year are reviewed in alphabetical order in the pages immediately following.¹

During the year the Commission was sustained in 15 cases before United States Circuit Courts of Appeals and reversed in none.

While there were no decisions during the year on the merits in Commission cases pending in the Supreme Court of the United States, that court denied petitions for writs of certiorari applied for by three petitioners who were unsuccessful in their attempts in the

¹ United States Circuit Courts of Appeals are designated First Circuit, Second Circuit, etc.

Circuit Courts of Appeals to nullify the Commission's orders. These petitioners were: E. Griffiths Hughes, Inc., Rochester, N.Y., Ironized Yeast Co., Atlanta, and the Armand Co., Des Moines, Iowa.

Twelve of the fifteen cases in which Circuit Courts of Appeals sustained the Commission were formal affirmances. These Cases were: Armand Co., Des Moines, Iowa; Battle Creek Appliance Co., Battle Creek, Mich.; Fairyfoot Products Co., Chicago; Hires Turner Glass Co., Philadelphia; Robert Hofeller, trading as Bob Hofeller Candy Co., Chicago; Hoffman Engineering Co., New York City; Ward J Miller, trading as Amber-Ita, Kalamazoo, Mich.; C. J. Ozment, St. Louis; Benjamin D. Ritholz, Chicago; H.I. Sifers, trading as Sifers Confection Co., Kansas City, Mo.; Southern Premium Manufacturing Co., Dallas, Tex., and Walker's New River Mining Co., Elkins, W. Va.

Of the remaining three cases, one involved a contempt proceeding for violation of a decree affirming a Commission order, in which the respondent, Louis Leavitt, of Brooklyn, N. Y., was fined \$1,000; one was a case in which the court dismissed the Commission's application for enforcement on joint motion of the Commission and the respondent because the latter (the Aviation Institute of U. S. A., Inc., Washington, D. C.) had made satisfactory compliance with the Commission's order to cease and desist, and the third case represented an unsuccessful attempt on the part of the National Association of Counter Freezer Manufacturers (Chicago) to obtain a writ of mandamus against the Commission.

The Commission was also successful, in interlocutory proceedings, in defeating three attempts by different respondents to interfere in the conduct of hearings before its trial examiners. The first case involved an attempt on the part of Edison-Bell Co., and others, New York City, by the use of subpoena, to compel the Commission's investigator to testify; the second, an attempt on the part of Englander Spring Bed Co., Chicago, to enjoin the taking of testimony before the Commission's trial examiner under section 77-B of the National Bankruptcy Act; the third, the refusal of certain witnesses to appear and testify in the Commission's proceeding against the Viscose Co. and others (so-called rayon case), New York City. These proceedings were all in the United States Court for the Southern District of New York.

Commission court cases for the fiscal year are summarized as follows:

Armand Co., Des Moines, Iowa.--The Second Circuit (New York City), on July 1, 1935, unanimously affirmed the Commission's order in this case (78 F. (2d) 707).

The proceeding involved maintenance by the Armand Co., through the medium of express or implied agreements, of resale prices for

its products (cosmetics) fixed at arbitrary levels imposed by the company.

The court, after summarizing the facts found by the Commission, concluded:

It was found as a fact by the Commission that the chief objective of petitioner's merchandising policy was the maintenance of the wholesale and retail prices suggested by the petitioner for its products, and that the direct effect of petitioner's practices had been and now is to suppress competition among wholesalers and between retail dealers engaged in the distribution and sale of petitioner's products. The further effect was the constraint imposed upon wholesale and retail dealers in selling petitioner's products at prices fixed by the petitioner, and the preventing of sale by such dealers of petitioner's products at prices which such dealers desired, thereby depriving the ultimate purchaser of petitioner's products of that advantage of price which otherwise would be theirs in a natural and unobstructed flow of commerce under free competition.

The Commission concluded that the petitioner's practices were to the prejudice and injury of the public and constituted unfair methods of competition in commerce and a violation of section 5 of the Trade Commission Act. The findings of the Commission are amply supported by the evidence. The evidence supports the finding that by agreements between petitioner and its dealers it maintained prices and prevented those who would not do so from securing petitioner's products.

* * * * *

This petitioner dealt with 39,000 retail druggists out of a total of 56,000, and 247 wholesale druggists out of a total of 550. The wholesalers and retailers were in competition with each other in the sale of petitioner's products. This is a kind of competition between wholesalers and retailers of a product of a single manufacturer which was intended by the decisions of the courts to be free and open. The policy in question had a tendency to stifle competition and was unlawful

A petition for rehearing was denied on August 2, 1935.

On November 1, 1935, the company petitioned the Supreme Court of the United States for a writ of certiorari. Opposition brief, on behalf of the Commission, was filed November 27. The petition was denied December 9 (296 U. S. 650).

On January 8, 1936, the Second Circuit, on motion of counsel for the Armand Co., entered an order directing the Commission to show cause why an order should not be entered vacating and setting aside the court's decree (entered July 8, 1935), affirming the Commission's order. After argument on March 16, the court (March 25) denied the motion. A motion for reargument of this motion was heard May 11 and denied July 2, 1936 (84 F.(2d) 973).

Aviation Institute of U.S. A., Inc., Washington, D. C.--The Commission, August 1, 1935, filed with the United States Court of Appeals for the District of Columbia, an application for enforcement of its order in this case.

The order, which was based on findings supported by an agreed statement of facts, required the respondent, a New York corporation,

with principal office and place of business in Washington, to cease and desist from using, as a part of its trade or corporate names, the letters "U. S. A.", or any letter or letters, word or words, symbol, device, or insignia denoting or indicating that the corporation was officially connected or affiliated with the United States Army or Navy, or with any department or branch of the Government of the United States; or that its course of instruction was conducted in accordance with the requirements or under the supervision or direction of the Army or Navy, or other department or branch of the Federal Government, or officer or employee thereof.

Subsequent to the institution of the court proceeding, the respondent filed with the Commission a supplemental report, from which it appeared that it had dropped the letters "U. S. A." from its name, and had changed it to "Aviation Institute of America." The Commission, feeling that this was a compliance with its order, joined with the respondent in asking dismissal of the suit. The order of dismissal was entered October 9, 1935.

Battle Creek Appliance Co., Ltd., Battle Creek, Mich.--This company, on January 11, 1935, filed with the Sixth Circuit (Cincinnati) a petition to review and set aside the Commission's order to cease and desist entered in this case.

Based on findings of fact supported by evidence, the order to cease and desist was directed against what the Commission found to be false, misleading, and deceptive statements and representations concerning respondent's treatment for goiter. Among other things, the order directed the respondent to cease and desist from representing by testimonials, endorsements, newspaper and magazine advertising, radio broadcasts, or in any manner:

- (1) That goiter can be or has been correctly diagnosed by said respondent from answers made by the laity to questions propounded by respondent through the mails.
- (2) That the presence of goiter can be determined or the type of goiter can be diagnosed without personal examination of a patient by a skilled physician.
- (3) That said respondent can or has successfully treated goiter by mail.
- (4) That said respondent can or has successfully treated goiter patients in their homes without the personal supervision and services of a skilled physician in such treatment.

After briefing and argument, the court, on October 14, 1935, being of the opinion that the Commission's findings of fact were supported by the evidence, and that such findings were legally sufficient to support the cease and desist order, affirmed the order, without opinion.

Butterick Publishing Co., New York City, and others.--This group of New York publishers and distributors of magazines and other periodicals, includes, besides the Butterick Co., MacFadden Publications, Inc., Frank A. Munsey Co., Street & Smith Publications, Inc.,

Pictorial Review Co., International Circulation Co., Inc., S. M. News Co., Inc., and Midwest Distributors, Inc. On October 25, 1935, the group filed with the Second Circuit (New York City) petitions to review and set aside the Commission's order.

The order directed the petitioners to cease and desist from preventing or seeking to prevent, by agreement, combination or concert of action, any person, firm or corporation lawfully owning second-hand or back-number magazines from selling them to distributors thereof or dealers therein, or seeking to prevent, or causing wholesalers of magazines to prevent news dealers or other retailers of magazines from buying and selling second-hand or back-number magazines. A proviso was added to the effect that nothing therein contained should prevent the petitioners from making such arrangement with or taking such action against wholesalers and retailers of their respective magazines as might reasonably be necessary to prevent the placing on sale of the coverless magazines or returns for which the petitioners had reimbursed such wholesalers and retailers.

The case was argued on the merits June 10, 1936, and was still pending at the close of the fiscal year.

Candy Lottery cases, Chicago, Hammond, Ind., Fond du Lac, Wis., Kansas City, Mo., and Dallas, Tex.--Eight cases of this type were pending in various circuit courts of appeals during the period covered by this report. Of this number, seven were docketed during the current fiscal year, one proceeding having been instituted during the previous year.

That proceeding, involving the *Walter H. Johnson Candy Co. (Chicago)*, was initiated by that corporation December 17, 1934, when it filed with the seventh circuit (Chicago) a petition to review and set aside the Commission's order. However, the order in question was unanimously affirmed by the court June 29, 1935 (78 F. (2d) 717). On August 24 the corporation filed a petition for rehearing. This was denied September 21, 1935.

On July 1, 1935, *Robert Hofeller, an individual trading as Bob Hofeller Candy Co. (Chicago)* filed with the seventh circuit a petition to set aside the Commission's order. Hofeller's products were sold, for the most part, through the medium of concessionaires with, and to, operators, managers, and proprietors of, burlesque theaters, traveling shows, tent shows, medicine shows, circuses, carnivals, and other amusement enterprises. Briefs were filed and the case argued January 30, 1936, and the court, on March 25, 1936, unanimously affirmed the Commission's order. Pertinent excerpts from the opinion follow (82 F. (2d) 647):

The instant case is controlled by *Federal Trade Commission v. Keppel & Bro.*, 291 U. S. 304. Petitioner agrees that his appeal turns upon the applicability or

nonapplicability of the Keppel ease. He differentiates the Keppel case on the ground that sales to children was there the determining factor, but was here absent.

* * * * *

It cannot be denied that the persuasive argument in the Keppel case was based on the fact that the consumers of the candy were, in the main, children. We are not satisfied, however, that the conclusion there reached is not here applicable. It will be noted that the Supreme Court emphasized the factor of lottery and chance in determining what constituted an unfair method of competition, and it spoke in general terms at times without limitation to instances where the consumers were children. The practice there disclosed was deemed offensive to some manufacturers who refrained from adopting it and therefore suffered loss. In the Keppel case there are many facts indicative of unfair trade methods there pointed out by the court which are present in the instant case. Among such similarities are: inferior candy sold in the prize packages; a relatively negligible amount of the candy was given in return for the price; substantial diversion of trade from actual or potential competitors; sale of the candy with the lottery feature in violation of local law; and competing manufacturers damaged by refraining from such practices.

Hofeller subsequently petitioned the Supreme Court of the United States for a writ of certiorari. The petition was pending in the Supreme Court at the close of the fiscal year.

The Commission, February 29, 1936, filed with the Seventh Circuit (Chicago), applications for the enforcement of its cease-and-desist orders in four cases involving lottery methods in the sale and distribution of candy. The concerns named as respondents were: *A. McLean & Son*, and *M. J. Holloway & Co.*, both of Chicago; the *Queen Anne Candy Co., Hammond, Ind.*, and *The Bonita Co., Fond du Lac, Wis.* These cases were argued June 3, 1936. ²

An application for similar enforcement was filed March 2, 1935., with the Eighth Circuit (St. Louis). This involved *H. I. Sifers, an individual trading as the Sifers Confection Co.*, with principal office and place of business at *Kansas City, Mo.* This case was argued June 4, 1936. A decree affirming the Commission's order and commanding obedience thereto *was* entered by the court on the same day (84 F. (2d) 999).

On April 22, 1936, the Commission docketed with the Fifth Circuit (New Orleans) an application for enforcement of its cease-and-desist order directed against the *Southern Premium Manufacturing Co. (some times trading as Ryan Candy Co.) of Dallas, Tex.* The court, on June 1, 1930, entered its decree affirming the Commission's order and directing the respondent to comply therewith.

Chicago Silk Co., Chicago.--This corporation, on June 22, 1936, petitioned the Seventh Circuit (Chicago) to set aside the Commission's order of April 27, 1930, directed against the sale, in interstate commerce, by means of lottery methods (involving the use of punch

² The Seventh Circuit. July 1, 1936, unanimously affirmed the Commission's orders in these 4 cases (84 F.(2d)910).

cards or push cards) of hosiery or lingerie. The order was based on findings to the effect that the company's sale method had the tendency and capacity unfairly to divert, and did divert to it, trade and custom from its competitors who did not use the same or equivalent methods; to lessen competition in the hosiery and lingerie trade, and deprive the public of the benefit of free competition in these trades. The case, at the close of the fiscal year, awaited certification and printing of transcripts, and filing of briefs and arguments.

Edison-Bell Co. Inc., and others, New York City.--During the course of hearings before the Commission's trial examiner in this case, the District Court for the Southern District of New York, at the instance of counsel for the respondents, on December 20, 1935, issued a subpoena directing the Commission's investigating attorney-examiner in the case to testify. On the appearance of the attorney-examiner, in response to the subpoena, no application having been made to the Commission to direct him to testify (the usual course in such cases), and counsel for the Commission having objected thereto, the hearing was adjourned. Thereupon, counsel for the Commission appeared before the district court and contended that the court did not have the power to issue the subpoena, pointing out that, under section 9 of the Federal Trade Commission Act, an order of the court compelling witnesses to appear before the Commission, is to issue only in the event of contumacy or refusal to obey a subpoena *therefore* issued *by the Commission*, and also calling the court's attention to the provisions of the act relating to the making public by any employee of the Commission of any information obtained by it. The court thereupon (Dec. 23, 1935) vacated the subpoena.

Englander Spring Bed Co., Chicago.--In this case (involving the use of alleged fictitious prices), an attempt was made, under section 77-B of the National Bankruptcy Act, to halt the taking of testimony before the Commission's trial examiner.

The case was set for trial in New York City on April 29, 1936, and the respondent so notified. Respondent thereupon, under provisions of the Bankruptcy Act, applied to the District Court for the Southern District of New York for a capital reorganization, and obtained a stay of all proceedings then pending against it. Relying on the stay order, respondent's principal officers disregarded the Commission's subpoenas requiring their appearance at the scheduled hearing.

The Commission's attorney, questioning the applicability of the stay order to Commission proceedings, called the case for hearing at the time set. The respondent obtained an adjournment, ostensibly for the purpose of securing from the court a construction of the order which would specifically include in its prohibitions any

proceedings instituted by the Commission. Instead, the respondent applied for an injunction to restrain the Commission and its attorney from further action in the premises.

The Commission filed a cross-bill, praying that the stay order be decreed to exempt from its terms any proceeding on behalf of the Commission; that the application for injunction be disallowed, and that the officers theretofore subpoenaed be directed summarily to appear and testify. The prayers of the cross-bill were allowed, and an order entered in all respects in conformity thereto.

Fairyfoot Products Co., Chicago.--This corporation, on January 14, 1935, petitioned the seventh circuit (Chicago) to set aside the Commission's order concerning the company's sale and distribution of a medicated pad for treatment of bunions, called Fairyfoot. The Commission found that the respondent's representations had a capacity and tendency to and did deceive retail merchants and the using public, and diverted business from competitors honestly representing their products and preparations.

The Commission order directed the respondent and its officers, agents, and employees to cease and desist from representing in advertising matter, circular letters, radio broadcasts, or otherwise, in connection with the interstate sale of its product:

That the treatment is approved by leading physicians and surgeons; that, by the use of Fairyfoot, bunions are dissolved, pain is stopped instantly, or almost instantly, and permanent relief follows; the foot again resumes its natural appearance and shape; bunion suffering is ended completely, the normal functions are stimulated; the absence of irritation and the continuous massage of the plaster plus the special Fairyfoot formula gradually reduces the bunion bump; that Fairyfoot gently dissolves the swelling caused by inflammation and should restore the foot to its normal appearance; it brings sure and certain relief from bunion suffering and the user can know the pleasure of bunion-free feet, etc.

The case was argued November 19, 1935, and the court, in an opinion handed down December 23, 1935, unanimously affirmed the Commission's order (80 F. (2d) 684). The court said:

That petitioner's plaster has virtue may, for the purposes hereof, be conceded * * * But this would not justify such sweeping claims as the condemned items of this advertising matter disclose, which were evidently intended to induce in the public mind the belief that here was an absolute and unfailing panacea for bunions of all kinds and degrees. Just where lies the line between "puffing", which is not unlawful and unwarranted, and misleading representations in advertising, is often very difficult of ascertainment. But in our judgment this case does not present such embarrassment, since the advertising here condemned is well beyond any "puffing" indulgence.

Goodyear Tire & Rubber Co., Akron, Ohio.--On April 7, 1936, the Goodyear Tire & Rubber Company filed with the sixth circuit (Cincinnati) its petition to review and set aside the Commission's order of March 5, 1936, directing the Goodyear company, its sub-

sidiaries, and their officers, agents, etc., to cease and desist from discriminating in price between Sears, Roebuck & Co. and the Goodyear company's retail-dealer customers, by selling automobile tires to Sears, Roebuck & Co. at net realized prices lower than those at which the Goodyear company sold the same sizes of tires of comparable grade and quality to individual tire dealers or other purchasers.

The Commission filed a certified transcript of the record with the court on May 18. The next steps, in order, are: Condensation and printing of the record (provided for by an order of the court), filing of briefs, and oral argument.

Hires Turner Glass Co., Philadelphia. --On August 24, 1935, the Commission filed with the Third Circuit (Philadelphia) an application for enforcement of its order in this case. There were also filed the printed transcript and brief for the Commission.

The order directed the respondent to cease and desist from designating mirrors having thereon a protective coating consisting of & mixture of shellac and powdered copper, by use of such descriptions as "copper-back" mirrors, "copper-backed" mirrors, mirrors "backed with copper", or by other word, words, or expressions of the same meaning or like import.

The Commission found the respondent to be in competition in interstate commerce with the makers of the electrolytic type of "copper-back" mirrors and also with makers of ordinary mirrors. Findings were that "the representations of respondent as aforesaid in regard to its said mirrors have had and do have the tendency and capacity to confuse, mislead, and deceive the trade and members of the purchasing public into the belief that such mirrors backed with a continuous sheath or film of solid metallic copper which is adherent to the reflecting medium, or that it is backed with such a film of copper deposited thereon by the electrolytic process." Such erroneous beliefs, it was found, had a capacity and tendency to induce the purchase of respondent's mirrors and to divert trade to the respondent from competitors engaged in selling ordinary mirrors and also "copper-back" mirrors made by the electrolytic process.

Respondent's brief was filed September 27, 1934, and the case was argued October 10, 1934.

The court, July 11, 1935 (81 F. (2d) 3(32)), unanimously affirmed the Commission's order. In its opinion, after summarizing the Commission's findings and the testimony upon which they were based, the court remarked:

It may well be that, had this court been a fact-finding tribunal, it might have reached conclusions other than those reached by the petitioner. The petitioner, however, had before it ample evidence upon which to find that the terminology had acquired a secondary meaning, prior to its use by the

respondent, and that the respondent's mirrors did not contain the essentials of genuine copper-back mirrors. Inasmuch as it is the duty of the Commission to determine the facts, it is our duty to sustain the Commission if there is any substantial evidence upon which its findings are based.

* * * * *

Even though there was no evidence of actual deception, the natural and probable result of the use of descriptive names, which do not properly describe the respondent's product, has the tendency and capacity to deceive. *Federal Trade Commission v. Balme*, 23 F. (2d) 615. *Notaseme Hosiery Co. v. Straus*, 201 Fed. 99. As was said by the Supreme Court in *Federal Trade Commission v. Alogoma Lumber Co.*, supra:

"The consumer is prejudiced if upon giving an order for one thing, he is supplied with something else . . .

In such matters, the public is entitled to get what it chooses, though the choice may be dictated by caprice or by fashion or perhaps by ignorance."

So, if the purchaser orders a copper-back mirror in the Justifiable belief that he will receive a mirror with a backing consisting of a solid sheath of copper electrolytically applied to the reflecting medium and receives, instead, a mirror having a backing of shellac and powdered copper, he is prejudiced.

On December 20, 1935, the court modified the Commission's cease and desist order by adding thereto a proviso to the effect "that the respondent may use such designations as are accompanied by qualifying terms which clearly signify that the copper backing on its mirrors is not electrolytically applied."

Hoffman Engineering Co., New York City.--The Commission, October 17, 1985, filed with the Second Circuit (New York City) an application for enforcement of its order in this case.

The order was directed against what the Commission found to be unwarranted claims for a Super-Fyre Amplifying Unit, manufactured and sold by respondent for use in connection with the ignition system of automobiles. This appliance or device was advertised "to cause the engine to have more power and speed, to be smoother in its running, to have less accumulation of carbon", etc.

On November 7, 1935, the court entered its decree affirming the Commission's order, and commanding the respondent to comply therewith.

E. Griffiths Hughes, Inc., Rochester, N. Y.--Affirming the Commission's order in this case, the Second Circuit (New York City), on June 3, 1935, handed down its decision (77 F. (2d) 886).

The Commission's order was based on findings to the effect that this concern, engaged in the sale in interstate commerce of proprietary preparations known as Kruschen Salts and Radox Bath Salts, falsely represented its Kruschen Salts as a cure or remedy for obesity, and that its Radox Bath Salts, when used in the bath and as otherwise directed, radiated oxygen in great quantities and sufficiently to produce an invigorating and energizing effect.

Developments in the last fiscal year were: Filing by the corporation, August 12, 1935, with the Supreme Court of the United States, of a petition for writ of certiorari to review the decision of the second circuit; filing, on behalf of the Commission, of a brief in opposition, and denial of the respondent company's petition by the Supreme Court, October 14, 1935 (296 U. S. 617).

Ironized Yeast Co., Atlanta.--In this case, the Commission's order, based on findings supported by evidence, required the respondent to cease and desist from mailing certain extravagant assertions concerning the medicinal properties of its product Ironized Yeast that is that the use of this product would cause to vanish over night, indigestion, constipation, nervousness, a tired feeling, or skin eruptions; that skinny or scrawny persons or those deficient in shape or form could by use of this product develop well-rounded and curved limbs and otherwise become transformed into shapely persons, and similar representations.

An effort by the respondents to set aside the order was unsuccessful, the Sixth Circuit (Cincinnati), June 3, 1935, affirmed it, with a statement that the findings of the Commission were amply supported by evidence and legally sufficient to authorize the issuance of the order.

On August 30, 1935, respondents petitioned the Supreme Court of the United States for a writ of certiorari; opposition brief on behalf of the Commission was filed September 20, and on October 14, 1935, the Supreme Court denied the petition (296 U.S. 623)

Louis Leavitt, Brooklyn, N. Y.--The Second Circuit (New York City), on December 17, 1935, assessed a fine of \$1,000 against Louis Leavitt for violation of a decree of that court affirming an order of the Commission directed against the misbranding of paint products.

The Commission's original order, issued June 9, 1925, prohibited Leavitt in designating and describing a product sold by him in interstate commerce, from using the terms "Gold Seal Combination White Lead", or combination white lead", unless the product so designated and described actually contained sulphate of lead or carbonate of lead or the two in combination as its principal and predominant ingredients "to the extent of not less than 50 percent by weight of the product." Leavitt was also forbidden from employing any other designation, brand, or label which falsely represented the relative quality of genuine white lead contained in the products so sold by him.

Leavitt disputed the legality of the order and sought to have it set aside. The Second Circuit, however, on December 9, 1926 (16 F. (2d) 1019), affirmed the order, and by its decree directed Leavitt to comply therewith. The Commission, finding that the court's decree was being violated, on December 12, 1928, petitioned the

court for issuance of a rule against Leavitt to show cause why he should not be adjudged in contempt. The rule was issued and, after hearing, Leavitt was adjudged guilty and on January 17, 1929, was fined \$500.

Subsequent investigation by the Commission disclosed that Laved was selling in interstate commerce, through the medium of the Louis Laved Corporation, of which he was president and the principal stockholder, a product labeled "Uncle Sam Zinc (Ritz) Lead Combination", which contained two-tenths of 1 percent of lead sulphate, 4.7 percent of zinc oxide, 7.6 percent of zinc sulphide, and 86.9 percent of barium sulphate. These facts were brought to the court's attention on December 16, 1935, and Leavitt was given a second fine of \$1,000.

Maisel Trading Post, Inc., Albuquerque, N. Mex.--The Commission's order to cease and desist in this case was affirmed by the Tenth Circuit (Denver, Colo.), on May 1, 1935 (77 F. (2d) 246). The order prohibited description of silver jewelry products made partly by machinery as "Indian" or "Indian-made", unless it was shown in such description whether the products so described had been rolled, pressed, or partly ornamented by machinery.

On a rehearing, the court, August 28, 1935 (79 F. (2d) 127), with the object of eliminating certain misunderstandings which had arisen concerning the interpretation of the order, modified the second paragraph to read as follows:

It is now ordered that respondent, its agents, representatives, and employees, shall cease and desist from designating, describing, or offering any of its silver Jewelry products for sale in interstate commerce as "Indian" or "Indian-made" Jewelry, where in substantial part machinery (other than hand tools, or nonmechanical equipment, or buffing wheels for polishing) shall be substituted for hand-hammering, shaping or ornamenting the same, unless the label stamp, catalog, or advertising shall clearly, expressly, and legibly state the method of such manufacture in immediate context with the descriptive terms.

A motion for interpretation of the modified order was argued June 26, 1936. The case was awaiting decision at the close of the fiscal year.

L. & C. Mayers Co., Inc., New York City.--This corporation, on December 21, 1935, petitioned the Second Circuit (New York City) to review and set aside the Commission's order directed against it. This company is engaged in the business of importing diamonds for resale; in purchasing, for resale, jewelry, silverware, diamonds, clocks, leather goods and kindred items, and in operating a factory where it manufactures less than 10 percent of all the jewelry handled by it.

Commission findings were to the effect that this corporation, in soliciting the sale of and in selling the articles dealt in by it, represented itself, in catalogs sent chiefly to industrial concerns, cooperative buying bureaus, State and municipal governments, and pur-

chasing clubs, as “wholesale jewelers”, and quoted certain so-called list prices, with discounts therefrom, for the purpose of inducing the purchasing public to buy its products, under the belief that it was a wholesaler engaged in selling to the retail-dealer trade, and that the purchaser was buying from it at retail-dealer prices.

However, according to findings, the so-called list prices were not list prices, but were figures which, when reduced by the discount offered, showed the prices of its articles as offered for sale to members of the purchasing public. The Commission’s order directed cessation of these practices.

Certification and printing of the transcript of record, the filing of briefs, and oral argument await the outcome of a hearing before the Commission with reference to modification of its order.

Ward J. Miller, Kalamazoo, Mich.--On October 21, 1935, the Commission filed with the Sixth Circuit (Cincinnati) an application for enforcement of its order directed against this respondent, an individual trading under the name Amber-Ita, and engaged in the sale and distribution of a preparation of the same name as a treatment and cure for diabetes. There were filed, with the application, a printed transcript of the record, and brief.

As a result of this petition, the Court, on December 3, 1935, entered its decree affirming the Commission’s order, and commanding the respondent to comply therewith.

National Association of Counter Freezer Manufacturers, Chicago.--Members of this association, on October 2, 1935, filed with the Supreme Court of the District of Columbia a petition for writ of mandamus, praying that the court issue a rule directing the Federal Trade Commission to take jurisdiction of certain allegations originally made in its complaint against the International Association of Ice Cream Manufacturers (charging unlawful restraint of competition in the ice cream business), and subsequently stricken out, on motion of a respondent.

Subsequent developments have been: Filing by the Commission of its answer, return, and motion to dismiss the petition; filing, by International Association of Ice Cream Manufacturers, of a motion for leave to intervene; filing of a motion to strike the Commission’s answer and motion to dismiss by the National Association of Counter Freezer Manufacturers, the joinder of issue by the Commission thereon, and subsequent action of the court in granting this motion only insofar as it related to the Commission’s motion to dismiss; filing of an amended answer by the Commission; granting of the motion of the International Association for leave to intervene; filing, by the original petitioners, National Association of Counter Freezer Manufacturers, of a demurrer to the amended answer of the Commission and the answer of the intervenor, and denial, March 20, 1936, of the petition for writ of mandamus.

The case has been appealed to the Court of Appeals for the District of Columbia.

C. J. Ozment, St. Louis.--The Commission instituted in the Eighth Circuit (St. Louis), January 29, 1936, proceedings for enforcement of its order against C. J. Ozment, of that city, an individual doing business under the trade names and styles of Ozment's Instruction Bureau, Ozment's Bureau, and Instruction Bureau, and engaged in selling by means of the United States mails, courses of instructions purporting to qualify applicants for or subscribers thereto, and to enable them to succeed in competitive examinations with credits sufficient to entitle them to be appointed to positions in the United States Government.

Various misrepresentations with respect to such examinations, to positions available in the Federal service, salaries, hours of work, etc., were mentioned in the Commission's findings of fact, supported by a stipulation of facts. The order directed discontinuance of the unfair competitive methods.

The court, February 10, 1936, entered its decree affirming the Commission's order, and directed the respondent to comply therewith.

Pacific States Paper Trade Association, and others, of San Francisco, and points in California, Washington, Oregon, and Utah.--The Commission, on May 21, 1936, filed with the Ninth Circuit (San Francisco), a petition for a rule requiring the Pacific States Paper Trade Association, its officers and members, and the officers and members of local associations affiliated therewith, to show cause why they should not be adjudged in contempt of that court for having disobeyed its decree of May 2, 1927, affirming the Commission's cease and desist order directed against price-fixing agreements in the sale of paper and paper products in interstate commerce.

The rule was issued on June 8. The respondents were required, on or before October 13, 1936, to show cause why they should not be adjudged in contempt.

Benjamin D. Ritholz, Chicago.--The Commission, on December 16, 1935, filed with the Seventh Circuit (Chicago) application for enforcement of its order to cease and desist against the respondent Ritholz, an individual conducting a laboratory in Chicago, and engaged since 1932 in the sale and distribution, in interstate commerce, of dental plates.

According to the Commission's findings, these plates, under a plan conceived and widely advertised by Ritholz, were made by him from impressions taken by members of the public located in various States and forwarded by them to Ritholz at his Chicago laboratory.

The Commission's order prohibited Ritholz from representing in any manner, including the use of testimonials or endorsements, or through newspapers, magazines, the radio, circulars, pamphlets, photo-

graphs, etc., that the dental plates so made by him were of a value greater than their actual value; that he made properly fitting and satisfactory dental plates from impressions of the mouth taken by laymen for whose use such plates were intended; that he adopted and was using in the manufacture of such plates the same scientific methods as dentists; that his plates would give full power of mastication, restore the natural facial expression, or enable the purchasers to wear them with ease and comfort, and other similar exaggerations.

After argument, June 2, 1936, the court affirmed the Commission's order from the bench.

Rossett Manufacturing Corporation, New York City.--This corporation, March 30, 1936, filed with the Second Circuit (New York City) its petition to review and set aside the Commission's cease and desist order, directed against representations that the petitioner, engaged in the sale of hats and caps in interstate commerce, was a manufacturer, unless and until it actually owned plants where its products were made.

The Commission, upon reconsideration of the matter and before filing with the court a certified transcript of the record, vacated and set aside its findings and order and dismissed the complaint.

Standard Education Society, and others, Chicago.--The Commission filed with the Second Circuit (New York City), on January 20, 1936, an application for enforcement of its cease and desist order against the respondents Standard Education Society, Standard Encyclopedia Corporation, H. M. Stanford, W. H. Ward, and A. J. Greener, all of Chicago, and engaged in the sale and distribution, in interstate commerce, of encyclopedias or reference works, so-called extension services, and works of fiction.

The order, which has been in effect since 1931, was directed against misleading advertisements and representations as to the date of printing, prices, and methods of sale and distribution of respondents' publications, and editorial services, testimonials and recommendations rendered or received in connection therewith.

With the application for enforcement there were filed a printed transcript of the record before the Commission and brief.

A subsequent development has been the argument and overruling of respondents' motion to dismiss as to the individual respondents the Commission's application for enforcement. This action was taken June 8, 1936. The case awaited filing of the respondents' brief and argument at the close of the year.

Viscose Co. and others, New York City.--This case, the so-called rayon case, involved alleged conspiracy to stifle competition in the price of rayon yarn.

During the course of hearings and after several postponements granted at the respondents' request, certain witnesses refused, on the

ground of in health, to respond to subpoenas duces tecum issued by the Commission. Thereupon the Commission applied to and obtained from the United States Court for the Southern District of New York, on January 29, 1936, orders compelling these witnesses to appear before the Commission's trial examiner on February 5, 1936, to testify and produce the desired documents.

The witnesses, on February 4, obtained a stay until February 14, to enable them to undergo medical examination. On February 7, on motion of Commission counsel, the stay was modified, and the court ordered the witnesses to submit themselves to a committee of doctors for examination between February 14 and 21. The report of the doctors was filed February 24, pronouncing the witnesses able to testify.

A further motion by the Commission was granted March 3, and the court compelled the witnesses to testify on March 18 before the trial examiner. This proceeding was still pending at the close of the year.

Walker's New River Mining Co., Elkins, W. Va.--The Commission filed with the Fourth Circuit (Richmond), April 20, 1935, an application for enforcement of its order to cease and desist in this case, also a printed transcript of the record, and brief.

According to the Commission's findings of fact, the term "New River" is applied to a coal field or district in West Virginia within the counties of Fayette, Raleigh, and Greenbrier, near the New River, and numerous operators produce from mines in this field, coal of a distinctly high grade, which they have advertised and sold for many years as "New River" coal. Because of its reputation, the name "New River" has become an asset of great value to the operators in this field. The respondent company extracts coal from the Cheat Mountain coal field, in Randolph County, w. Va., but according to findings, sells it in interstate commerce as "New River" coal. The Commission's order was to stop this practice.

The respondent's answer to the application for enforcement was filed May 20, 1935, and its brief on June 11. The case was argued at Asheville, N. C., June 13, and the court, October 8, 1935, unanimously affirmed the Commission's order (79 F. (2d) 457). In the course of its opinion, it said:

That the brand "New River" coal has acquired a particular significance in the coal trade, both to the dealer and the consumer, cannot be doubted; that this result has been brought about, as found by the Commission, by the expenditure of large sums of money by the coal operators in the New River field (geographically) is undisputed. This being true, these operators have acquired something of value and are entitled to be protected in the use of it. That the use of these words is of value is shown not only by the testimony, but is to be presumed from the fact that the respondent has shown itself so anxious to use and continue to use the words "New River" in its business

without having in any way contributed to the efforts which gave the words their peculiar value in the coal trade. That such a course on the part of the respondent constitutes an unfair method of competition is plain.

* * * * *

The order of the Commission was fully warranted by the facts and the law; was made by an experienced body created by Congress for the purpose of deciding questions of this character and the order to cease and desist is affirmed.

TABLES SUMMARIZING LEGAL WORK OF THE COMMISSION AND COURT PROCEEDINGS, 1915-36

TABLE 1.--*Preliminary inquiries.*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year	0	4	12	32	19	29	61	68	147	102	191
Instituted during year	119	265	402	611	843	1,197	1,070	1,223	1,234	1,568	1,612
Total for disposition	119	269	474	643	862	1,136	1,131	1,291	1,381	1,670	1,803
Closed after investigation	3	123	259	292	298	351	500	731	897	1,157	1,270
Docketed as applications for complaints	112	134	153	332	535	724	563	413	382	322	357
Total disposition during year	115	257	442	624	833	1,075	1,063	1,144	1,279	1,479	1,627
Pending end of year	4	12	32	19	29	61	68	147	102	191	176

	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936
Pending beginning of year	176	298	328	224	260	409	307	423	478	760	185
Instituted during year	1,483	1,265	1,331	1,469	1,505	1,380	1,659	1,593	2,151	847	837
Total for disposition	1,659	1,563	1,659	1,693	1,765	1,789	1,966	2,016	2,629	1,607	1,022
Closed after investigation	1,075	942	1,153	1,049	1,050	1,150	1,319	1,274	1,597	935	624
Docketed as applications for complaints	256	293	282	384	296	332	224	264	272	487	257
Total disposition during year	1,361	1,235	1,435	1,433	1,356	1,482	1,543	1,538	1,869	1,422	911
Pending end of year	298	325	224	260	409	307	423	478	760	185	111

CUMULATIVE SUMMARY TO JUNE 30, 1936

Inquiries instituted	25,634
Closed after investigation	18,059
Docketed as applications for complaints	7,434
Total disposition	25,523
Pending June 30, 1936	111

TABLE 2.--*Export trade investigations*

	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936
Pending beginning of year	53	35	79	43	10	16	29	42	40	27	17	8	4	0	0
Instituted during year	10	79	16	11	52	54	68	20	11	7	2	1	0	0	0
Total for disposition	63	114	95	54	62	70	97	62	51	34	19	9	4	0	0
Disposition during year	25	35	52	44	46	41	55	22	24	17	11	5	4	0	0
Pending end of year	35	79	43	10	16	29	42	40	27	17	8	4	0	0	0

CUMULATIVE SUMMARY TO JUNE 30, 1936

Investigations instituted	384
Total disposition	384
Pending June 30, 1936	0

TABLE 3.--Applications for complaints

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1926
Pending beginning of year	0	104	130	188	280	389	554	467	458	572	555
Applications docketed	112	134	153	332	535	724	426	382	416	377	340
Rescissions:											
To complaints	0	0	0	0	0	0	0	0	0	0	0
Settled by stipulations to cease and desist-C. T. E	0	0	0	0	0	0	0	0	0	1	1
Settled by stipulations to cease and desist- S. B. I	0	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	0	0	0	0	0	0	5	6	4	3
Closed for other reasons	1	0	0	0	0	0	0	0	0	0	0
Total for disposition	112	238	283	520	815	1,113	980	854	880	954	909
To complaints	0	3	16	80	125	220	156	104	121	143	118
Settled by stipulations to cease and desist--C. T. E	0	0	0	0	0	0	0	0	0	3	5
Settled by stipulations to cease and desist--S. B. I	0	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	8	105	79	160	301	339	357	292	187	243	298
Closed for other reasons	1	0	0	0	0	0	0	0	0	0	0
Total disposition during year	8	108	95	240	426	559	513	396	308	389	421
Pending end of year	104	130	188	280	389	554	487	458	572	565	488
	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936
Pending beginning of year	488	420	457	530	843	753	754	440	476	469	634
Applications docketed	273	292	334	679	535	511	378	404	376	913	1,221
Rescissions:											
To complaints	0	0	0	0	2	2	0	0	0	0	0
Settled by stipulations to cease and desist-C. T. E	1	0	2	2	3	5	3	3	1	6	8
Settled by stipulations to cease and desist-S. B. I	0	0	0	0	0	0	0	0	3	4	12
Settled by acceptance of T. P. C. rules	0	0	0	1	3	2	0	0	0	0	0
Dismissed for lack of merit	4	0	0	0	3	4	1	0	3	1	12
Closed for other reasons	1	0	0	0	0	0	0	0	0	1	3
Total for disposition	766	712	793	1,212	1,389	1,277	1,136	850	859	1,394	1,888
To complaints	57	45	58	100	171	110	90	52	98	259	382
Settled by stipulation to cease and desist-C.T.E	102	80	68	118	244	160	123	96	111	228	301
Settled by stipulations to cease and desist-S.B.I	0	0	0	0	31	48	209	85	90	129	243
Settled by acceptance of T.P.C. rules	2	3	19	17	32	5	6	3	0	1	0
Dismissed for lack of merit	185	127	118	134	158	205	268	138	91	66	4
Closed for other reasons	1	0	0	0	0	0	0	0	0	77	273
Total disposition during year	846	255	268	369	636	523	696	374	390	760	1,203
Pending end of year	420	457	530	843	753	754	440	475	469	634	685
CUMULATIVE SUMMARY TO JUNE 30, 1936											
Applications docketed										9,847	
Rescissions:											
To complaints										7	
Settled by stipulations to cease and desist-C. T. E										34	
Settled by stipulations to cease and desist-S. B. I										19	
Settled by acceptance of T. P. C. rules										6	
Dismissed for lack of merit										46	
Closed for other reasons										4	
Total for disposition										9,963	
To complaints										2,508	
Settled by stipulations to cease and desist-C. T. E										1,639	
Settled by stipulations to cease and desist-S. B. I										830	
Settled by acceptance of T. P. C. rules										85	
Dismissed for lack of merit										3,863	

Closed for other reason	350
Total disposition	9,278
Pending June 30, 1936	685

1 This classification includes such reasons as death, business or practice discontinued, private controversy, controlling court decisions, etc.

2 C T. O. designates stipulations concerning general unfair practices negotiated for the Commission by its chief trial examiner. S. B. I. means stipulations handled by the special board of investigation in cases of false and misleading advertising. T. P. C. indicates trade practice conference.

TABLE 4.--Complaints

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	
Pending beginning of year		0	0	5	10	86	133	287	312	257	232	264
Complaints docketed	0	5	9	154	135	308	177	111	144	154	132	
Orders to cease and desist:												
Contest	0	0	0	0	0	0	0	0	0	0	4	0
Consent	0	0	0	0	0	0	0	0	0	0	1	0
Default	0	0	0	0	0	0	0	0	0	0	0	0
Settled by stipulation, to cease and desist	0	0	0	0	0	0	0	0	0	0	0	
Settled by acceptance of T.P.C rules	0	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit.	0	0	0	0	0	0	0	1	0	1	1	0
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	0	0	0
Total for disposition	0	5	14	164	221	441	465	423	402	392	396	
Complaints rescinded	0	0	0	0	0	0	0	0	0	0	0	0
Orders to cease and desist:												
Contest	0	0	3	71	75	110	116	74	28	45	30	
Consent	0	0	0	0	0	0	0	17	54	47	43	
Default	0	0	0	0	0	0	0	0	0	0	0	
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	0	0	8
Settled by acceptance of T.P.C rules	0	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	0	1	7	13	44	37	75	88	36	97	
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	0	0	0
Total disposition during year		0	0	4	78	88	154	153	166	170	128	176
Pending end of year	0	5	10	86	133	287	312	257	232	264	220	

	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	
Pending beginning of year		220	152	147	136	198	275	225	208	144	115	218
Complaints docketed	82	76	84	149	172	110	92	53	97	280	386	
Orders to cease and desist:												
Contest	0	0	1	0	0	0	0	0	0	0	0	2
Consent.	0	0	0	0	0	0	1	0	0	0	0	8
Default	0	0	0	0	0	0	0	0	0	0	1	2
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of T.P.C rules	0	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	1	0	0	0	0	0	0	0	0	0	0
Closed for other reasons	0	0	0	0	0	0	0	0	0	0	0	0
Total for disposition	282	229	212	285	370	385	318	261	241	396	616	
Complaints rescinded	0	0	0	0	3	2	1	3	0	0	0	0
Orders to cease and desist:												
Contest	28	34	38	56	36	87	39	37	39	54	75	
Consent	16	18	8	7	11	14	18	25	61	70	85	
Default	0	0	2	4	1	7	6	4	11	2	1	
Settled by stipulations to cease and desist	3	1	3	3	3	4	2	1	1	1	0	
Settled by acceptance of T.P.C rules	0	5	5	1	0	1	0	6	0	0	0	
Dismissed for lack of merit	83	24	20	16	41	45	44	41	13	38	18	
Closed for other reasons	0	0	0	0	0	0	0	0	1	13	18	
Total disposition during year	130	82	76	87	95	160	110	117	126	178	197	
Pending end of year	152	147	136	198	275	225	208	144	115	218	419	

CUMULATIVE SUMMARY TO JUNE 30, 1936

Complaints	2,870
Orders to cease and desist:	
Contest	7
Consent	10
Default	3
Settled by stipulations to cease and desist	0
Settled by acceptance of T.P.C. rules	0

Dismissed for lack of merit	4
Closed for other reasons 1	0
Total for disposition	2,894

1 This classification includes such reasons as death, business or practices discontinued, private controversy, controlling court decisions, etc.

TABLE 4.--*Complaints--Continued*CUMULATIVE SUMMARY TO JUNE 30, 1936--*Continued*

Complaints rescinded	9
Orders to cease and desist:	
Contest	1,075
Consent	494
Default	38
Settled by stipulations to cease and desist	28
Settled by acceptance or T.P.C. rules	18
Dismissed for lack of merit	781
Closed for other reasons ¹	32
Total disposition	2,475
Pending June 30, 1936	419

¹ This classification includes such reasons as death, business or practices discontinued, private controversy, controlling court decisions. etc.

COURT PROCEEDINGS--ORDERS TO CEASE AND DESIST

TABLE 5.--*Petitions for review--lower courts*

	1919	1920	1921	1922	1923	1924	1925	1925	1927
Pending beginning of year	0	2	8	13	9	4	14	9	8
Appealed	4	9	18	5	5	15	6	5	4
Total for disposition	4	11	26	18	14	19	20	14	12
Decisions for Commission	1	0	1	4	5	1	6	5	4
Decisions for others	1	3	11	5	4	4	3	1	2
Petitions withdrawn	0	0	1	0	1	0	2	0	3
Total disposition during year	2	3	13	9	10	5	11	6	9
Pending end of year	2	8	13	9	4	14	9	8	3
	1928	1929	1930	1931	1932	1933	1934	1935	1935
Pending beginning of year	3	3	35	3	8	15	2	1	3
Appealed	4	34	1	10	22	3	1	5	6
Total for disposition	7	37	36	13	30	18	3	8	9
Decisions for Commission	3	1	4	3	1	2	2	3	4
Decisions for others	1	1	26	1	11	13	0	0	0
Petitions withdrawn	0	0	3	1	3	1	0	0	0
Total disposition during year	4	2	33	5	15	16	2	3	4
Pending end of year	3	35	3	8	15	2	1	3	5

CUMULATIVE SUMMARY TO JUNE 30, 1936

Appealed	157
Decisions for Commission	50
Decisions for others	87
Petitions withdrawn	15
Total disposition	152
Pending June 30, 1936	5

This table lists a cumulative total of 87 decisions against the Commission in the United States Circuit Courts of Appeals. However the Grand Rapids furniture (vener) group (with 25 different docket numbers) is in reality 1 case, with 25 different subdivisions. It was tried, briefed, and argued as 1 case, and was so decided by the court of appeals. The same holds true of the curb-pump group (with 12 different subdivisions), the Royal Milling Co. group (with 6 different subdivisions), and the white Pine cases (12 subdivisions). In reality, therefore, these 55 docket numbers mean but 4 cases and, if cases and not docket numbers are counted, the total of adverse decisions would be 36.

TABLE 6.--*Petitions for review--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	0	1	3	3	1	0	4	6
Appealed by Commission	0	2	2	4	5	0	5	2	1
Appealed by others	0	0	0	0	2	1	1	3	1
Total for disposition	0	2	3	7	10	2	8	0	8
Decisions for Commission	0	0	0	2	0	0	0	0	8
Decisions for others	0	1	0	0	5	1	0	0	2
Petitions withdrawn by Commission	0	0	0	0	1	0	0	0	0
Certiorari denied Commission	0	0	0	2	1	0	1	2	1
Certiorari denied others	0	0	0	0	2	1	1	1	1
Total disposition during year	0	1	0	4	9	2	2	3	7
Pending end of year	0	1	3	3	1	0	4	8	1

	1928	1929	1930	1931	1932	1933	1934	1935	1936
Pending beginning of year	1	0	1	0	0	0	1	0	0
Appealed by Commission	0	0	1	1	0	8	12	0	0
Appealed by others	0	2	0	0	1	0	1	0	4
Total for disposition	1	2	2	1	1	8	14	0	4
Decisions for Commission	0	0	0	0	0	6	13	0	0
Decisions for others	0	0	1	1	0	0	1	0	0
Petitions withdrawn by Commission	0	0	1	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	0	0	1	0	0	0
Certiorari denied others	1	1	0	0	1	0	0	0	8
Total disposition during year	1	1	2	1	1	7	14	0	8
Pending end of year	0	1	0	0	0	1	0	0	1

CUMULATIVE SUMMARY TO JUNE 30, 1936

Appealed by Commission	43
Appealed by others	15
Total appealed	59
Decisions for Commission	24
Decisions for others	12
Petitions withdrawn by Commission	2
Certiorari denied Commission	8
Certiorari denied others	12
Total disposition	58
Pending June 30, 1936	1

TABLE 7.--*Petitions for enforcement--Lower courts*

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	0	0	0	0	0	1	0	2
Appealed	0	0	0	0	1	1	1	8	2
Total for disposition	0	0	0	0	1	1	2	3	4
Decisions for Commission	0	0	0	0	1	0	2	0	0
Decisions for others	0	0	0	0	0	0	0	1	0
Petitions withdrawn	0	0	0	0	0	0	0	0	1
Total disposition during year	0	0	0	0	1	0	2	1	1
Pending end of year	0	0	0	0	0	1	0	2	3

TABLE 7.--*Petitions for enforcement--lower courts--Continued*

	1928	1929	1930	1931	1932	1933	1934	1935	1936
Pending beginning of year	3	2	5	3	2	1	2	2	2
Appealed	3	9	4	3	0	2	3	6	12
Total for disposition	6	13	9	6	2	3	5	8	14
Decisions for Commission	1	5	4	4	0	0	3	4	7
Decisions for others	1	0	1	0	1	0	0	0	0
Petitions withdrawn	2	1	1	0	0	1	0	2	1
Total disposition during year	4	6	6	4	1	1	3	6	8
Pending end of year	2	5	3	2	1	2	2	2	3

CUMULATIVE SUMMARY TO JUNE 30, 1936

Appealed	50
Decisions for Commission	31
Decisions for others	4
Petitions withdrawn	9
Total disposition	44
Pending June 30, 1936	6

TABLE 8.--*Petitions for enforcement--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	0	0	0	0	0	0	0	1
Appealed by Commission	0	0	0	0	0	0	0	0	0
Appealed by others	0	0	0	0	0	0	0	1	0
Total for disposition	0	0	0	0	0	0	0	1	1
Decisions for Commission	0	0	0	0	0	0	0	0	0
Decisions for others	0	0	0	0	0	0	0	0	1
Certiorari denied others	0	0	0	0	0	0	0	0	0
Total disposition during year	0	0	0	0	0	0	0	0	1
Pending end of year	0	0	0	0	0	0	0	1	0

	1928	1929	1930	1931	1932	1933	1934	1935	1936
Pending beginning of year	0	0	1	0	0	0	0	0	0
Appealed by Commission	0	1	0	0	0	0	0	0	0
Appealed by others	1	0	1	0	0	0	0	0	0
Total for disposition	1	1	2	0	0	0	0	0	0
Decisions for Commission	0	0	0	0	0	0	0	0	0
Decisions for others	0	0	1	0	0	0	0	0	0
Certiorari denied others	1	0	1	0	0	0	0	0	0
Total disposition during year	1	0	2	0	0	0	0	0	0
Pending end of year	0	1	0	0	0	0	0	0	0

CUMULATIVE SUMMARY TO JUNE 30, 1936

Appealed by Commission	1
Appealed by others	3
Total appealed	4
Decisions for Commission	0
Decisions for other,	2
Certiorari denied others	2
Total disposition	4
Pending June 30, 1936	0

TABLE 9.--Court proceedings-miscellaneous lower courts

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	1	4	5	6	4	4	4	4
Appealed by Commission	1	2	0	3	5	0	1	0	1
Appealed by others	1	2	2	3	0	0	0	1	1
Total for disposition	2	5	6	11	11	4	5	5	6
Decisions for Commission	1	0	1	3	0	0	0	0	1
Decisions for others	0	1	0	1	7	0	0	0	0
Petitions withdrawn by Commission	0	0	0	0	0	0	1	1	0
Petitions withdrawn by others	0	0	0	1	0	0	0	0	0
Total disposition during year	1	1	1	5	7	0	1	1	1
Pending end of year	1	4	5	6	4	4	4	4	5

	1928	1929	1930	1931	1932	1933	1934	1935	1936
Pending beginning of year	5	3	2	1	1	2	1	0	0
Appealed by Commission	0	2	0	1	0	1	0	0	4
Appealed by others	2	1	2	0	2	0	2	0	1
Total for disposition	7	6	4	2	3	3	3	0	
Decisions for Commission	1	4	1	1	1	2	2	0	4
Decisions for others	1	0	1	0	0	0	0	0	0
Petitions withdrawn by Commission	2	0	0	0	0	0	0	0	0
Petitions withdrawn by others	0	0	1	0	0	0	1	0	0
Total disposition during year	4	4	3	1	1	2	3	0	4
Pending end of year	3	2	1	1	2	1	0	0	1

CUMULATIVE SUMMARY TO JUNE 30, 1930

Appealed by Commission	21
Appealed by others	20
Total appealed	41
Decisions for Commission	22
Decisions for others	11
Petitions withdrawn by Commission	4
Petitions withdrawn by others	3
Total disposition	40
Pending June 30,1930	1

TABLE 10.--*Court proceedings-Miscellaneous--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	0	0	0	0	6	4	1	1
Appealed by Commission	0	0	0	0	6	0	0	0	1
Appealed by others	0	0	0	0	0	0	0	0	0
Total for disposition	0	0	0	0	6	6	4	1	2
Decisions for Commission	0	0	0	0	0	0	0	0	1
Decisions for others	0	0	0	0	0	2	3	0	0
Certiorari denied Commission	0	0	0	0	0	0	0	0	1
Certiorari denied others	0	0	0	0	0	0	0	0	0
Total disposition during year	0	0	0	0	0	2	3	0	2
Pending end of year	0	0	0	0	8	4	1	1	0

	1928	1929	1930	1931	1932	1933	1931	1935	1936
Pending beginning of year	0	0	0	0	0	0	0	0	0
Appealed by Commission	0	0	0	0	0	0	0	0	0
Appealed by others	0	0	1	0	0	0	1	0	0
Total for disposition	0	0	1	0	0	0	1	0	0
Decisions for Commission	0	0	0	0	0	0	0	0	0
Decisions for others	0	0	0	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	0	0	0	0	0	0
Certiorari denied others	0	0	1	0	0	0	1	0	0
Total disposition during year	0	0	1	0	0	0	1	0	0
Pending end of year	0	0	0	0	0	0	0	0	0

CUMULATIVE SUMMARY TO JUNE 30, 1936

Appealed by Commission	7
Appealed by others	2
Total appealed	9
Decision for Commission	1
Decisions for others	5
Certiorari denied Commission	1
Certiorari denied others	2
Total disposition	9
Pending June 30, 1936	0

PART III. TRADE-PRACTICE CONFERENCES

HISTORY AND PURPOSE OF PROCEDURE

VOLUNTARY AGREEMENTS

TRADE-PRACTICE CONFERENCE PROCEEDINGS

OUTLINE OF TRADE CONFERENCE PROCEDURE

GROUP I AND GROUP II RULES

PART III. TRADE-PRACTICE CONFERENCES

HISTORY AND PURPOSE OF TRADE-PRACTICE CONFERENCE PROCEDURE

The trade-practice conference is the logical development of the efforts of the Federal Trade Commission, in cooperation with industry, to protect the public from unfair methods of competition and to raise the standards of business practices.

The Division of Trade-Practice Conferences, created by the Commission on April 19, 1926, is charged with the duty of coordinating and facilitating the work incident to holding trade-practice conferences and of encouraging cooperation between business as a whole and the Commission in serving the public interest. The Commission, as early as 1919, utilized the procedure of holding conferences with industry for the purpose of eliminating unfair methods of competition and trade abuses.

The trade-practice conference affords a means whereby representatives of an industry may voluntarily assemble and under the auspices of the Federal Trade Commission, consider prevailing unfair trade practices and collectively agree upon and provide for their abandonment, thus placing all members of the industry concerned on an equally fair competitive basis insofar as unfair trade practices are concerned. Under this procedure a business or industry takes the initiative in establishing self-government by making its own rules of business conduct, subject to approval by the Commission.

Through these Conferences the same results are achieved as by issuance of formal complaints by the Commission, but without bringing charges or employing any compulsory process. The procedure is predicated on the theory that the primary concern of the Federal Trade Commission is the public interest. Its importance to the public consists in bringing widespread relief from the harmful effects of unfair methods of competition which otherwise might not be accomplished in years, and in the saving of public funds which otherwise would be spent in conducting trials of many cases.

Since the inauguration of this activity by the Commission, trade-practice conference proceedings have been held under the Commission's auspices for more than 170 industries of varied character, comprising memberships of from several hundred to many thousand.

VOLUNTARY AGREEMENTS UNDER N. I. R. A. EXTENDED

Under the President's Executive Order No. 7192, dated September 26, 1935, authority was delegated to the Commission, under the National Industrial Recovery Act, as extended, to approve trade-practice provisions of voluntary agreements, it being provided therein that such agreements should contain labor provisions. Approval by the Commission of the trade-practice provisions in these agreements was conditioned upon the approval by the President of the labor provisions contained therein. Taking advantage of this suggested procedure, 22 industries submitted voluntary agreements. Concerning the proposed trade-practice provisions contained in four of the voluntary agreements, public hearings were held to afford interested parties opportunity of offering any suggestions or objections pertinent thereto. None of the proposed voluntary agreements having received Presidential approval as to the labor provisions, the trade-practice provisions accordingly did not receive the Commission's approval.

The authority for promulgation of voluntary agreements under the National Industrial Recovery Act, as extended, expired April 1, 1936, the date of the termination of the act.

TRADE-PRACTICE CONFERENCE PROCEEDINGS

With respect to applications filed with the Commission for trade-practice conferences, trade-practice rules as proposed by a number of industries were released by the Commission to afford all interested parties opportunity to present objections, if any, to the proposed rules. Public hearings were held in Washington and elsewhere for the reception of such objections. Industries presenting proposed rules for which conference proceedings were held during the fiscal year, were: Buff and polishing wheel manufacturers; cotton converting industry (embracing the following industry branches: Clothiers' linings other than all-cotton; corset, brassiere, and allied trade fabrics; all-cotton clothiers' linings; converted curtain and drapery fabrics; shirting fabrics; wash goods fabrics; inter-linings, and bleached goods); fertilizer industry; spiral tube and core manufacturers; fire extinguishing appliance manufacturers; juvenile wheel goods manufacturers; ladies' handbag manufacturers; paper drinking straw manufacturers; preserve manufacturers; radio receiving set manufacturers; school supplies and equipment distributors; steel tubular and fire-box boiler manufacturers; vegetable ivory button manufacturers; rubber tire industry; private home study schools; and Douglas fir plywood manufacturers.

Before final action is taken by the Commission on rules proposed for an industry, they are released to the public for a period of 15

days to afford interested parties opportunity to offer objections or suggestions.

Trade-practice conference proceedings for the following industries advanced during the fiscal year to the stage of final promulgation of rules: Wholesale tobacco trade, fire extinguishing appliance manufacturers, and vegetable ivory button manufacturers. Proceedings were virtually completed during the year for the following industries (although the remaining steps necessary for promulgation of the rules in each instance were not taken until shortly after the close of the fiscal period): Paper drinking straw manufacturers; buff and polishing wheel manufacturers; cotton converting industry (including the eight branches above mentioned); and flat glass manufacturers and distributors.

Rules promulgated by the Commission are sent to members of the industries concerned, accompanied by acceptance blanks which they are requested to sign and return to the Commission.

In addition to public hearings and trade-practice conferences, approximately 300 informal conferences were held with representatives of different industries respecting pending applications for conferences or other phases of the Commission's trade-practice conference work.

OUTLINE OF PROCEDURE

The first requisite of a trade-practice conference is an expression of desire on the part of a substantial majority of the members of an industry to eliminate unfair methods of competition and trade abuses and to improve competitive conditions. The procedure is as follows:

I. Method of applying for a trade-practice conference.--Before authorizing a trade-practice conference, the Commission assures itself that the holding of such conference is desirable and to the best interest of the industry and the public. An application, in the form of a petition or informal communication, should contain the following information:

1. A brief description of the business for which the conference is intended, stating also the products manufactured or the commodities distributed, and approximating the annual volume of production, volume of sales, capitalization of the industry, or like items, so as to furnish an idea of the size and importance of the industry.

2. The authority of the person or persons making the application must also be shown. If the application is made by an association executive, a resolution showing the action of the association should be submitted, together with a statement showing the percentage of the entire industry represented by the association membership, which may be given on the basis of volume of business, or numerically, or both. If the application comes from an unorganized group, the per-

centage of the entire industry represented by the group applying for the conference should be indicated.

3. The application should state whether the conference is intended for all branches of the industry, or is to be limited to a particular branch or branches thereof. If the resolutions to be adopted by manufacturers, for example, are confined to practices which do not materially affect distributors, there would be no particular reason for including distributors; however, if the proposed action involves distribution, the distributors should be included.

4. The application should set out the various unfair methods of competition, trade abuses, and uneconomic and unethical practices alleged to exist in the industry at the time the application is filed and which the industry desires to eliminate through the medium of a trade-practice conference. This does not mean, however, that discussion at the conference is limited to the particular subjects thus proposed, as the conference itself constitutes an open forum wherein any practice existing in the industry may be brought forward as a proper subject for consideration. Any resolutions submitted by a committee or member of an industry prior to the holding of a trade-practice conference are tentative, and their introduction does not prohibit other members of the industry from presenting new or different resolutions.

If convenient, the application should be accompanied by a complete and accurate list of the names and addresses, of all firms in the industry, or such list may be furnished shortly after the application is filed. This list should be divided or symbolized to indicate the types of concerns, that is, manufacturers, distributors, and so forth, which are to be included in the conference.

II. Procedure following authorization by the Commission.--After a conference has been authorized by the Commission, a time and place are arranged and a commissioner or member of the Commission's staff is designated to preside. Anyone engaged in the industry for which the conference is authorized may participate. Resolutions are introduced, discussed, and, if necessary, amended before adoption by the conference.

Following receipt of the official transcript of the conference proceedings by the Commission, the rules adopted are transmitted to the Commission with appropriate recommendations. The rules approved by the Commission are then sent to a committee of the industry appointed to cooperate with the Commission, with the request that said committee indicate, on behalf of the industry, its acceptance of the rules. Following such acceptance, every member of the industry whose name and address is available to the Commission is furnished a copy of the Commission's action, together with an ac-

ceptance card which he is requested to sign and return to the Commission indicating his purpose to comply with the rules.

After a trade-practice conference has been held, the Commission retains an active interest in the observance of the rules adopted by the industry and approved by the Commission.

GROUP I AND GROUP II RULES

Rules approved by the Commission which relate to practices violative of the law are designated as group I rules. Other resolutions adopted by the industry, and received by the Commission as expressions of the trade on the subjects covered, are placed in group II.

Explanation of group I rules.--The unfair trade practices embraced in group I rules are considered to be unfair methods of competition or illegal competitive methods within the statutes and decisions of the Federal Trade Commission and the courts, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

Explanation of group II rules.--The trade practices embraced in group II rules do not, per se, constitute violations of law. They are considered by the industry either to be unethical, uneconomical, or otherwise objectionable; or to be conducive to sound business methods which the industry desires to encourage and promote. Such rules, when they conform to the foregoing specifications and are not violative of law, will be received by the Commission, but the observance of said rules must depend upon and be accomplished through the cooperation of the members of the industry concerned, exercised in accordance with existing law. Where, however, such practices are used in such manner as to become unfair methods of competition in commerce or a violation of any law over which the Commission has jurisdiction, appropriate proceedings will be instituted by the Commission as in the case of violation of group I rules.

**PART IV. SPECIAL PROCEDURE IN CERTAIN TYPES OF
ADVERTISING CASES**

NEWSPAPER, MAGAZINE, AND RADIO ADVERTISING

PART IV. SPECIAL PROCEDURE IN CERTAIN TYPES OF ADVERTISING CASES

NEWSPAPER, MAGAZINE, AND RADIO ADVERTISING

False and misleading advertising matter as published in newspapers and magazines and as broadcast over the radio is surveyed and studied by a special board set up by the Federal Trade Commission in 1929. This board, known as the Special Board of Investigation, consists of three Commission attorneys designated to conduct hearings and specialize in this class of cases.

Misrepresentation of commodities sold in interstate commerce is a type of unfair competition with which the Commission has dealt under authority of the Federal Trade Commission Act since its organization. By 1929, it had become apparent that misrepresentations embodied in false and misleading advertising in the periodical field was of such volume that it should receive specialized attention from the Commission.

Since that time the Commission, through its special board, has examined the advertising columns of newspapers and magazines, and since 1934 commercial advertising continuities broadcast by radio it has noted any misleading representations appearing in this material, and has also received from the public complaints of false and misleading advertising. Each representation so noted and each complaint received from the public is carefully investigated, and, where the facts warrant, and informal procedure does not result in the prompt elimination of misleading claims and representations, formal procedure is instituted. While a number of orders have been issued requiring the respondents to cease and desist from advertising practices complained of, in a majority of cases the matters have been adjusted by means of the respondent signing a stipulation agreeing to abandon the unfair practices.

The Commission believes its work in this field has contributed to the general improvement which has occurred in the last few years in the character of advertising.

Newspaper and magazine advertising.--In reviewing advertisements in current publications, the Commission, through its special board, has found it advisable to call for some periodicals on a continuous basis, due to the persistently questionable character of the advertisements published. However, as to publications generally, it

is physically impossible to review, continuously, all advertisements of a doubtful nature; also, it is found unnecessary to review all the issues of publications of recognized high ethical standard where the publishers carefully censor all copy before acceptance.

With this situation in mind, the Commission has found it of material value to procure periodicals in cognate groups as to type or class, volume of circulation, and character of field of distribution, such as agricultural, fiction, informational, movie, trade, sales promotion, and the like. Advertisements of similar character, purpose and appeal are thus assembled and reviewed to advantage in a related manner.

During the last fiscal year, the Commission examined 96,939 advertisements appearing in newspapers and magazines and noted 9,074 as containing statements that appeared to be false or misleading. These 9,074 advertisements formed the basis of 1,865 prospective cases.

Radio advertising.--The Commission began the review of advertising copy broadcast over the radio at the beginning of the fiscal year 1934-35. At the outset, the Commission, through the Special Board of Investigation, made a survey of all commercial continuities, covering the broadcasts of all radio stations during July 1934. The volume of returns received and the character of the announcements indicated that a satisfactory continuous scrutiny of current broadcasts could be maintained with a limited force and at small expense, by adopting a plan of grouping the stations for certain specific periods.

Consequently, beginning with September 1934, quarterly calls have been issued to individual radio stations according to their licensed power and location in the five radio zones established by the Federal Communications Commission. These returns cover specified 15-day periods.

National and regional networks, however, respond on a continuous weekly basis, submitting copies of commercial continuities for all programs wherein linked hook-ups are used involving two or more affiliated or member stations.

Producers of electrical-transcription recordings submit regular weekly and monthly returns of typed copies of the commercial portions of all recordings manufactured by them for radio broadcast. As the actual broadcast of a commercial recording is not always known to the manufacturer of a commodity being advertised, the Commission's knowledge of current transcription programs is supplemented by special reports from individual stations from time to time, listing the programs of recorded transcriptions with essential data as to the names of the advertisers, and the articles sponsored.

The combined material received from the individual stations for specified periods, from the weekly returns on regional and national network broadcasts, and from the special transcription reports, furnishes the Commission with representative and specific data on the character of radio advertising which has proven of great value in its efforts to curb false and misleading trade representations.

During the last fiscal year, the special board received copies of 299,334 commercial broadcasts by individual radio stations and 38,109 commercial broadcasts by networks, or chain Originating key stations. The broadcasts from the independent stations averaged 1½ pages each and from the networks 10 pages each.

The special board and its staff read and marked about 947,000 pages of typewritten copies during the year, an average of 3,105 pages every working day. Of these, 19,572 commercial broadcasts were marked as containing representations that appeared to be false or misleading. These broadcasts were assembled in 1,314 prospective cases for further review and procedure in instances that appeared to require it.

In its examination of advertising, the Commission's purpose is to prevent false and misleading representations. It does not undertake to dictate what an advertiser shall say, but rather indicates what he may not say. Jurisdiction is limited to cases which have a public interest as distinguished from a mere private controversy, and which involve practices held to be unfair to competitors in interstate commerce.

The Commission is receiving the helpful cooperation of the nearly 600 active commercial and radio stations and of newspaper and magazine publishers generally, and notes a desire on the part of these broadcasters and publishers to aid the Commission in the elimination of false and misleading advertising.

Methods of procedure in advertising cases.--If a periodical or radio advertisement appears on its face to be misleading, the Commission sends a questionnaire to the advertiser, requesting a sample of his product, if this is practicable, and a quantitative formula, if the product is a compound, and also requests copies of all advertisements published during the year, together with copies of all booklets, folders, circulars, form letters, and other advertising literature used. Upon receipt of this data, the claims, sample, and formula are referred to an appropriate technical agency of the Government for scientific opinion. Upon receipt of this opinion, the advertising is carefully studied, and a list of numbered excerpts made that appear to require justification or explanation. A copy of this numbered list and a copy of the opinions received are sent to the advertiser, who may then sub-

mit such evidence as he thinks may justify or explain the representations in his advertising.

An advertiser may answer by correspondence, or upon request, may confer in person with the special board.

Should the advertiser justify the representations that have been questioned, the board reports the matter to the Commission with the recommendation that the case be closed without prejudice to the right of the Commission to reopen it should it become necessary. Should he be unable to justify any material statement in his advertising which the board has reason to believe is false or misleading, the board reports the matter to the Commission with recommendation that the case be docketed, and the entire matter referred back to the board for negotiation of a stipulation or agreement to abandon the unfair representations alleged, providing the advertiser desires to dispose of the matter in that manner.

If the Commission approves such recommendation, the board then prepares a stipulation and forwards it to the advertiser for execution. If the advertiser objects to any of the provisions of the stipulation, he may negotiate further by mail or in person, and when a stipulation has been agreed to and signed by the advertiser, the matter is again reported to the Commission with recommendation that the stipulation be accepted and the case closed.

Experience has shown that the elimination of unfair methods of competition can be accomplished not only by cease-and-desist orders but by stipulation. Not only is the stipulation method effective and speedy, but it is also inexpensive for both the Government and the respondent.

Number of cases handled.--During the last fiscal year the Commission, through its special board, instituted the stipulation procedure in 823 cases, negotiated 247 stipulations, and settled and closed by its various methods of procedure a total of 883 cases. The board recommended that complaints be issued in 35 cases for failure to execute stipulations and in 9 cases for violating stipulations. In eight cases the board recommended that complaints be issued without giving the advertisers an opportunity to stipulate because of gross deception or danger to the public involved in the practices in which they were engaged.

In 584 cases the board recommended filing the assembled data and closing the cases without prejudice to the right of the Commission to reopen them at any time the facts warranted. A few of these cases were closed because the Post Office Department had issued fraud orders against the respondents concerned. Others were closed because the parties respondent had discontinued advertising or selling with-

out intent to resume, and others because the advertisers were able to justify their claims.

At the beginning of the fiscal year 344 cases were pending before the special board, and at the end of the year 284 cases were pending.

Commission has access to scientific services.--Effective cooperation continued throughout the year with other departments of the Government. The Commission has access to the laboratories, libraries, etc., of various agencies of the Federal Government, including the Bureau of Standards, the Public Health Service, and the Food and Drug Administration of the Department of Agriculture, to which it refers matters for scientific opinion. In addition, the Commission obtains medical and other scientific information and opinions from hospitals, clinics, and laboratories when necessary. In this manner the Commission is able to arrive at unprejudiced judgments in matters coming before it.

PART V. FOREIGN-TRADE WORK

PROVISIONS OF EXPORT TRADE ACT

EXPORT ASSOCIATIONS IN 1935

ADVANTAGES IN EXPORT TRADE COMBINATION

FOREIGN TRADE SERIES NO.2

ASSOCIATIONS FILING PAPERS

TRUST LAWS AND UNFAIR COMPETITION ABROAD

PART V. FOREIGN-TRADE WORK

The Commission's foreign-trade activities, conducted by its export trade section, under direction of the chief counsel, include administration of the Export Trade Act, commonly known as the Webb-Pomerene law, and inquiries under section 6 (h) of the Federal Trade Commission Act as to trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States.

PROVISIONS OF THE EXPORT TRADE ACT

The Export Trade Act passed in 1918 authorizes the formation of combines or associations engaged solely in export trade, to which are granted certain antitrust exemptions. The purpose of the law is to promote export trade.

Section 1 of the act: defines export trade as "solely trade or commerce in goods, wares, or merchandise exported, or in the course of being exported from the United States or any Territory thereof to any foreign nation", defining also trade within the United States, and the term

Sections 2 and 3 grant exemption from the Sherman Act and section 7 of the Clayton Act to such an export group, provided there shall be no restraint of the export trade of a domestic competitor, no artificial or intentional enhancement or depression of prices within the United States, and no substantial lessening of competition or other restraint of trade in this country.

Section 4 extends the provisions of the Federal Trade Commission Act to unfair methods of competition employed in export trade against competitors in such trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

Section 5 provides for the filing of papers and reports with the Commission by a Webb-Pomerene law group, and for procedure in case of violation of the law.

OPERATION OF EXPORT ASSOCIATIONS IN 1935

Products invoiced at approximately \$137,685,000 were exported by Webb-Pomerene law groups in 1935. These exports, compared with 1934, are as follows:

Association exports for the years 1934 and 1935

	1934	1935
Metal, and metal products, copper, iron and steel, metal lath, machinery, railway equipment, pipes and valves, screws, electrical apparatus, and signal apparatus	\$27,000,000	\$20,250,000
Products of mines and wells, crude sulphur, phosphate rock, petroleum products, and carbon black	53,000,000	55,875,000
Lumber and wood products, pine, fir, redwood, walnut, hardwood, plywood, tool handles, barrel shooks, and wood naval stores ¹	8,500,000	9,450,000
Foodstuffs, such as milk, meat, sugar, flour, fresh fruit, canned fruit, and dried fruit	21,300,000	16,500,000
Other manufactured goods, rubber, paper, abrasives, cotton goods, buttons, and chemicals	36,000,000	35,610,000
	145,800,000	137,685,000

¹ Naval stores only in 1935

Lumber exports showed an increase, but keen competition of European woods, preferential tariffs in the United Kingdom, and labor strikes on the Pacific coast, proved handicaps to American lumber exporters.

In metal products increased production by foreign competitors, and the low prices quoted by them, resulted in a drop in exports from this country. Use of compensation marks in Germany, and continued depreciation of the Japanese yen, made it possible for foreign companies to undersell American products, although in some cases price reductions were made to meet the foreign competition.

In exportation of products of mines and wells there was some improvement. In foodstuffs exports were lower in 1935, due in part to price reductions, but especially to increased duties, quota plans, and other restrictions designed to protect home markets in countries where the production of foodstuffs has been encouraged by governmental measures.

In some countries exchange restrictions have been lightened, and there is sufficient improvement in economic conditions to be reflected in purchasing power. But generally the "hand-to-mouth" buying policy has been continued, and export associations have been seriously handicapped by the scarcity of dollar exchange and continued restrictions on imports abroad.

Newly organized groups during the year included: Wood Naval Stores Export Association, comprising 4 companies in Mississippi Louisiana, and Delaware, with headquarters in Wilmington; American Box Shook Export Association, comprising 12 companies in Georgia, Virginia, New York, Massachusetts, Illinois, New Mexico, California, and Washington State, with headquarters in Washington, D. C.; Plate Glass Export Corporation, comprising 3 companies in Pennsylvania and Ohio, with headquarters in Pittsburgh; and the California Prune Export Association, comprising 6 companies in that State, with headquarters in San Francisco.

ADVANTAGES IN EXPORT TRADE COMBINATION

Associations reporting during the year note the following advantages obtained from operation under the Export Trade Act: Reduction of selling expense through cooperative effort; more effective canvassing of foreign fields; stabilized prices at more profitable levels; uniformity in contracts, shipping documents, and sales policies; standardization of grades; improvement in packing and marking; substantial savings in bank charges, freight rates, and insurance; inspection service; reduction in credit losses; elimination of unfair claims from buyers; obtaining for members necessary current information concerning foreign market conditions; ability to meet foreign competition, especially from selling combines; negotiating to advantage with purchasing combines; and ability to fill orders promptly and satisfactorily, or to furnish a full cargo, by drawing upon the combined source of supply represented by the association membership.

FOREIGN TRADE SERIES NO. 2

In October 1935, the Commission issued a pamphlet entitled "Foreign Trade Series No.2, Practice and Procedure Under the Export Trade Act", explaining the purpose of the law, its provisions, the filing of papers with the Commission, Webb-Pomerene law organization and Operation, advantages obtained by export groups, the products exported, associations formed in 1918 to 1935; and, in the appendix, the first-report form for export trade associations and text of the laws involved. Copies are available for distribution upon request to the Commission.

WEBB-POMERENE LAW ASSOCIATIONS FILING PAPERS

Forty-five Webb-Pomerene law associations were on file with the Federal Trade Commission on June 30, 1936, the membership comprising companies scattered throughout the States, from coast to coast.

American Box Shook Export Association, Barr Building, Washington, D. C.
 American Hardwood Exporters, Inc., Queen and Crescent Building, New Orleans.

American Locomotive Sales Corporation, 30 Church Street, New York City.
 American Paper Exports, Inc., 75 West Street, New York City.
 American Provisions Export Co., 80 East Jackson Boulevard, Chicago.
 American Soda Pulp Export Associa-

American Spring Manufacturers Export., Association, 30 Church Street, New York City.

American Tire Manufacturers Export Association, 30 Church Street, New York City.

California Dried Fruit Export Association, 1 Drumm Street, San Francisco.

California Prune Export Association, 1 Drumm Street, San Francisco.

Carbon Black Export, Inc., 500 Fifth Avenue, New York City.

Cement Export Co., The, 270 Broad-

tion, 230 Park Avenue, New York City.

way, New York City.

Copper Exporters, Inc., 26 Broadway, New York City.

Douglas Fir Exploitation & Export Co., Henry Building, Seattle.

Durex Abrasives Corporation, 63 Wall Street, New York City.

Electrical Apparatus Export Association, 541 Lexington Avenue, New York City.

Export Petroleum Association, Inc., 67 Wall Street, New York City.

Export Screw Association of the United States, 23 Acorn Street, Providence, R. I.

Florida Hard Rock Phosphate Export Association, Savannah Bank & Trust Building, Savannah, Ga.

General Milk Co., Inc., 19 Rector Street, New York City.

Goodyear Tire & Rubber Export Co., 1144 East Market Street, Akron, Ohio.

Grapefruit Distributors, Inc., Davenport, Fla.

Inter-America Exporters, Inc., 11 Broadway, New York City.

Metal Lath Export Association, 47 West Thirty-fourth Street, New York City.

Northwest Dried Fruit Export Association, Title & Trust Building, Portland, Oreg.

Pacific Flour Export Co., care of Fisher Flouring Mills Co., Seattle.

Pacific Forest Industries, Tacoma Building, Tacoma, Wash.

Phosphate Export Association, 393 Seventh Avenue, New York City.

Pipe Fittings & Valve Export Association, 1421 Chestnut Street, Philadelphia.

Plate Glass Export Corporation, Grant Building, Pittsburgh.

Redwood Export Co., 405 Montgomery Street, San Francisco.

Rubber Export Association, 19 Good-year Avenue, Akron, Ohio.

Shook Exporters Association, Stahlman Building, Nashville, Tenn.

Signal Export Association, 74 Trinity Place, New York City.

Standard Oil Export Corporation, 30 Rockefeller Plaza, New York City.

Steel Export Association of America, 75 West Street, New York City.

Sugar Export Corporation, 120 Wall Street, New York City.

Sulphur Export Corporation, 420 Lexington Avenue, New York City.

Textile Export Association of the United States, 40 Worth Street, New York City.

United States Alkali Export Association, Inc., 11 Broadway, New York City.

United States Handle Export Co., Piqua, Ohio.

Walnut Export Sales Co., Inc., Twelfth Street and Kaw River, Kansas City, Kan.

Walworth International Co., 60 East Forty-second Street, New York City.

Western Plywood Export Co., Taconia Building, Tacoma, Wash.

Wood Naval Stores Export Association, 1220 Delaware Trust Building, Wilmington, Del.

TRUST LAWS AND UNFAIR COMPETITION IN FOREIGN COUNTRIES

Under section 6 (h) of the Federal Trade Commission Act, the Commission notes the following measures involving trust laws and unfair competition in foreign countries

Argentina.--A new grain act was passed in September 1935. Fixing of minimum prices will continue, as will fixing of basic prices at which the grain board will purchase from producers for resale to exporters at world prices. A corporation of meat producers was formed by the Government in January 1935, extending export markets and thereby raising internal prices. Other boards and commissions are in operation for the sugar, wine, dairy, cotton, and yerbe mate industries. Decree of November 26, 1935, provided new

regulations for unfair advertising in labels, containers, wrappers, literature, and radio announcements.

Australia.--Benefit payments were made to growers during the year under the Wheat Growers Relief Act and the Wheat Bounty Act, part of the amount having been derived from a sales tax on flour. A compulsory pool and a commonwealth marketing system are under consideration. The Dairy Products Act, consolidating various export levies, assured producers of a domestic price above ex-port parity.

Austria.--The Government's price-raising program, effective in 1935, was modified in 1936 by a new policy including a plan to dissolve the antiprice-cutting courts and active attempts to lower the price of foodstuffs.

Belgium.--Under a decree dated January 13, 1935, providing for regulation of production and distribution by cartels or trade associations, a number of industries have entered into agreements to prevent the creation of new means of production or the enlargement of existing plants. A law effective on January 7, 1935, created a national coal office to control production and fix prices. A decree of February 26, 1935, supplemented that of December 23, 1934, to curb sales of stock, and a decree of July 9, 1935, created a banking commission which will also control issuance of securities.

Brazil.--The Minimum Salary Act, January 14, 1936, provided for commissions to be set up in regional districts for the purpose of determining minimum wages. Law No. 178, January 9, 1936, regulated sales of sugarcane by planters to mill owners. Other control organizations include the national coffee department and the cocoa institute.

Bulgaria.--The Industrial Law of October 12, 1935, gives governmental authority to control industrial expansion, to forbid erection of new plants, or check renovation and expansion of established enterprises in industries which are deemed to have reached the saturation point. A ministerial order published November 13, 1935, amends the law regarding trade and industrial names, and prescribes detailed rules for the marking of piece goods, to avoid misrepresentation.

Canada.--In addition to the Trade and Industry Commission Act, the Economic Council Act, and the Wheat Act, referred to in the Commission's last annual report, Canadian legislation in 1935 included: The Relief Act, Prairie Farm Rehabilitation Act, Social Insurance Act, Fair Wages and hours of Labor Act, Minimum Wages Act, Fisherman's Loan Act, Dominion Housing Act, Exchange Fund Act, Fruit, Vegetables, and Honey Act, and an Act to Provide for Limiting the Hours of Work in Industrial Undertakings.

The following laws were amended in 1935: The Combines Investigation Act, the Companies Act, section 498A of the Criminal Code, the Natural Products Marketing Act, Precious Metals Marking Act, Canadian Farm Loan Act, Farmers' Creditors Arrangement, Customs Tariff Act, Patent Act, Public Works Construction Act, Live Stock and Live Stock Products Act, and Weights and Measures Act. The Economic Council Act of 1935, and section 98 of the Criminal Code dealing with unlawful associations were repealed in 1936.

In decisions rendered by the Supreme Court of Canada in June 1936, the Farmers' Creditors Arrangement Act and the 1935 amendments to section 498A of the Criminal Code were held valid; the Dominion Trade and Industry Commission Act was upheld in part; the Natural Products Marketing Act and the Social Insurance Act were held invalid. As to the Minimum Wages Act, the Limitation of Hours of Work Act, and the Weekly Rest in Industrial Undertakings Act, the vote of the justices was three to three. Appeal may be taken to the Privy Council in London.

Royal Commissions were appointed in 1936 to investigate the textile industry and the importation and distribution of anthracite coal. A code of fair competition and business practice for the retail trade, effective in Alberta in 1936, included labor provisions and price fixing, and prohibited the use of loss leaders, the giving of gratuities or secret rebates, false advertising, misleading statements, and other unfair methods.

Colombia.--Law No.87, 1935, established a section in the Ministry of Industry and Labor to promote industrial activities and the establishment of new industries.

Cuba.--The Law against Clandestine Industries and Commerce, August 21, 1935, declared illegal and punishable by fine the operation of industries and commerce which involve manufacture or sale without complying with certain provisions. Law No. 165 of 1935 and decree laws No.52 of 1935 and No.825 of 1936, provided for a National Board of Trade representative of business interests and governmental offices. Decree Law No.822, April 13, 1936, provided for a National Technical Fertilizer Commission to regulate the importation, manufacture, and sale of fertilizers, and fertilizer materials.

Czechoslovakia.--The Industrial Law passed in 1935 required industries to remain in production unless authorized by Government *to* close. A business that is operating at a profit will not be permitted to close and thereby add to the unemployment problem. A decree effective on May 9, 1935, Law No.251 of December 22, 1935, and Decree No.70 of March 27, 1936, regulated single-price stores, prohibited change in location or establishment of new stores, and limited

the products that may be sold. A law defining installment sales and setting forth the rights of the parties was passed in 1935. The Grain Monopoly Act, effective July 13, 1935, continued the monopoly created by law in 1934, which controls the purchase and sale of all domestic and foreign grain, including also flour and mill products. A bill for revision of the Cartel Act was introduced in 1936. On May 1, 1936, there were 787 agreements in operation on the cartel register.

Denmark.--The Danish Grain Law, August 3, 1935, imposed taxes on certain grain imports, the proceeds to be used for agricultural aid. This act was amended on April 7, 1936.

Dominican Republic.--Law No.929, June 21, 1935, regulated the hours of work in commerce and industry.

Ecuador.--Decree No.209, issued in March 1936, established a control board to regulate fruit exports and imposed export taxes to be used in aid of domestic production. A National Economic Council to coordinate governmental policy was created by executive decree in 1935. Similar councils are functioning in Colombia, Chile, Mexico, and Peru.

Egypt.--Decree Law No.108, September 19, 1935, established surtaxes on imports to compensate for exchange dumping.

Estonia.--Under the Control of Industry Law, April 1, 1936, the Minister of Economic Affairs is authorized to exercise a wide control over all types of industries, in order to prevent unfair competition and to safeguard economic interests. Existing plants may not be extended or new plants established without license from the Ministry.

France.--A series of decrees signed in July and August 1935 included provisions for price control, agricultural encouragement, foreign-trade control under a quota system, investment safeguards, banking regulations, and other trade measures. Further decrees in October 1935 provided for various administrative reforms, including: Modification of company legislation; amendments to regulations for the stock and commodity markets; control of the manufacture and sale of gas-protection apparatus; reduction of the bounty allowed spinners; provisions for the fixing of maximum prices for essential foodstuffs in the colonies; requirement that enterprises holding concessions or receiving subsidies must utilize French vessels only; various modifications of the wheat-control legislation, including withdrawal of the bounty on exports, withdrawal of the tax on wheat used in the manufacture of flour, special reductions in land leases and interest rates on farm loans, reductions in fertilizer prices, and provisions for confiscation of wheat surplus in an effort to reduce the production of wheat. The building of new flour mills and increase in grinding capacity are prohibited.

A decree law on October 30, 1935, authorized a compulsory industrial agreement for the silk manufacturing industry, if subscribed to by two-thirds of the manufacturers representing three-fourths of the means of production ; but a vote in the industry on December 1 failed to obtain the required support. A bill for the compulsory cartellization of the spinning industry was introduced in December 1935. A decree for the control of production of naval stores was published on March 29, 1936. A law dated March 22, 1936, prohibited the opening of new shoe stores or factories, or change in size, increase, or displacement of plants during 2 years, without authority of the Minister of Commerce and Industry. A law of March 22, 1936, prohibited the establishment of new One-price stores during the period of 1 year ; stores already established are prohibited from creating new departments for the sale of one-price merchandise, or from establishing new branches.

Germany.--Industry has been organized into groups under the guild principle. Cartel supervision has been intensified, agreements are subject to consent of the Minister of Economics ; more compulsory cartels have been formed. Prices of goods produced from foreign raw materials are regulated by the Government. Special supervision of prices by the Price Commissioner has been removed. Production may be regulated by decrees on a quota basis.

Regulations forbid dismissal of workers, expansion of existing plants, or erection of new plants, without authorization.

As part of the Reichs Food Estate, numerous associations are operating under control of the Minister of Agriculture, with authority to regulate production, sale, prices, and price spreads of agricultural products, including processed goods. Special privileges, credits, and subsidies have been granted to producers of some agricultural products. Export subsidies are raised by levies on industry, the wholesale trade (including imports), and on agricultural products.

The land reform movement has continued, including division of large estates, reclamation of waste lands, and operation of the inheritance tax law under which Government authorization must be obtained for mortgage, sale, or division of land. Foreign trade is conducted largely through clearing, payment, or barter agreements. Exchange was under control of the Minister of Economics until April 1936 when authority of the Prime Minister over foreign exchange and raw materials was announced. A number of decrees and ordinances have been issued regulating advertising.

Great Britain.--Under the Agricultural Marketing Act, 1931, amended in 1933, regulations were in effect in 1936 for market control of hops, fluid milk, pigs, bacon, and potatoes ; restriction of imports was applied to certain meat products, fat cattle, processed milk,

eggs, and potatoes. The beet-sugar subsidy, inaugurated in 1925 for a 10-year period, was extended; a bill presented in 1936 would continue the subsidy and create a marketing board and a permanent commission to control the production of growers and factories. Amalgamation of sugar mills is also proposed.

The wheat subsidy provided by the Wheat Act of 1932 has been continued ; a milk subsidy was instituted in July 1934, for a 2-year period ; a subsidy on cattle and beef has been effective since September 1934. Under the Cotton Spinning Industries Act, 1936, a spindles board is empowered to acquire property and machinery for the purpose of eliminating redundant machinery in mills. The Coal Mines bill, introduced in 1936, would amend the act of 1930 and extend the coal control to 1942; the most controversial portion concerns compulsory amalgamation of mining interests. A special committee of the Board of Trade recommended extension of part I of the Safeguarding of Industries Act, which would otherwise have expired on August 19, 1936.

International--The British steel industry joined the Continental Steel Cartel under a 5-year agreement effective in August 1935, and South African producers signed a 5-year agreement in February 1936. Japanese manufacturers joined the International Nitrogen Syndicate in January 1936. The European potash cartel has been joined by the newly developed industry in Palestine. An international agreement is reported between coke producers in Britain, Germany, Netherlands, Belgium, and possibly Poland, under which export quotas will be determined and prices fixed. The European citric acid cartel, established in 1934, now includes the Italian industry and synthetic producers in England, Belgium, Czechoslovakia, and France.

Trade agreements of great interest to American exporters and importers were concluded by the United States under the Trade Reciprocity Act of 1934; with Colombia on September 13, 1935, effective on May 20, 1936 ; with Canada on November 15, 1935, effective on January 1, 1936; with Honduras on December 18, 1935, effective on March 2, 1936 ; with Netherlands (Netherlands in Europe, Netherlands India, Surinam and Curacao) on December 20, 1935, effective February 1, 1936; with Switzerland on January 9, 1936, effective on February 15, 1936; with Nicaragua on March 11, 1936, not yet effective; with Guatemala on April 24, 1936, effective on June 15, 1936; with France and its colonies, dependencies and protectorates other than Morocco, on May 6, 1936, effective on June 15, 1936; and with Finland on May 18, 1936, not yet effective.

Italy.--A Royal decree law, July 28, 1935, created a Government monopoly to handle all imports of coal, copper, nickel, tin, and rela-

tive scrap. Special export subsidies are effective on agricultural products produced in surplus quantities. Other measures to encourage agricultural production include liberal credit terms, lowering of interest rates on farm loans, reclamation projects, restriction of imports, milling regulations, and prize offers. All wheat supplies are under control of the Ammassi Collectivi, with authority to fix prices to be paid by the millers. Economic reforms include nationalization of key industries which supply requirements for national defense, effected in 1936; the Institute for Industrial Reconstruction already held capital stock in the industries affected.

Japan.--A recently established National Reconstruction Commission will study the production of farm products and make recommendations for agricultural aid. The 5-year plan instituted in 1932 has greatly stimulated the production of wheat. Rice production and marketing are regulated under the Rice Control Act. Special aid has also been given to the silk cocoon industry. A plan under discussion in 1936 involves creation of an export raw silk sales control association, which would establish prices and trade practices and regulate exports. New machinery for the control of production and exportation of rayon textiles will be set up in 1936 by the Ministry of Commerce and Industry and representatives of the manufacturers and export associations.

Netherlands.--A commission of the Economic Council was appointed in 1985 to regulate commercial and industrial agreements, to promote cooperation, and discourage unsound competition, and to prevent the formation of pernicious monopolies. A bill introduced in 1936 would control the establishment of retail, craftsman's, and small industrial shops requiring Government license, dependent upon proof of business ability and financial capacity. The production and marketing of agricultural products are controlled by monopoly agencies under the Farm Crisis Act of 1933 ; import fees are used to finance agricultural relief.

Netherlands East Indies.--An ordinance on July 1, 1935, empowered the Government to fix prices of necessities of life. The Crisis Import Ordinance of 1933 was amended in November 1935. The Industrial Control Ordinance of 1934, which gave to the Government authority to regulate definite branches of industry, restrict the expansion of existing plants, or the founding of new units, was applied in 1935 to dairy farms, warehousing and docking, printing houses, cigarette factories, rice and weaving mills. A packing ordinance on May 17, 1935, imposed regulations concerning the labeling of goods.

Newfoundland.--An act passed on March 24, 1936, repealed the antidumping provisions of the tariff law.

New Zealand.--The Primary Products Marketing Act, 1936, provided for a new department, under a Minister of Marketing, authorized to handle, pool, transport, store, and market all dairy produce and other primary products under ownership or control of the Government; to take over the duties of the Executive Commission of Agriculture in control of export trade in such products; to supervise acts of the Dairy Board, and to enter into negotiations with foreign countries for agreements in promotion of reciprocal trade.

Panama.--The Nationalization of Commerce Law, 1934, imposing a tax on merchants classified as "surplus", was declared unconstitutional by the Supreme Court in a decision dated December 18, 1935.

Paraguay.--An antidumping law was passed October 26, 1935.

Poland.--In an effort to equalize industrial and agricultural prices, railroad rates and prices of cartel goods and commodities produced by Government monopolies have been reduced by decree. Subsidies have been paid on a number of agricultural exports, in order to support domestic prices. Other aids to farmers include restriction of agricultural imports, rebates on fertilizers and tools imported for farm use, loans, credit adjustments, and reduction of interest on farm indebtedness. The Cartel Law was amended November 27, 1935; the Minister of Industry and Commerce may not only suspend agreements but may order the dissolution of cartels. A decree issued May 7, 1936, placed all foreign trade under control of a special commission, with a plan similar to that existing in Germany.

Portugal.--Law No. 1936, March 18, 1936, for control of economic associations handling consumer goods, prohibits agreements for abusive restriction of production, transportation, or trade.

Salvador.--Law No. 177, January 6, 1936, declared the electric power industry to be a public utility and created a commission to supervise all enterprises engaged in the production, transmission, and distribution of electric power for public use.

Spain.--Agricultural measures include reform laws passed on August 1 and November 9, 1935, and a number of emergency decrees. The Agrarian Reform Institute may declare certain estates of public utility, and these may be expropriated for use of agricultural laborers. Government efforts to support the wheat market, effective in 1935, including price fixing, control of sales, and segregation of stocks, were abandoned by Government decree in April 1936; the practice of granting subsidies to cotton growers was also abandoned.

Union of Socialist Soviet Republics.--A new constitution was announced in June 1936.

Union of South Africa.--Maize traders were required to export 50 percent of their purchases in 1935, and on all shipments above that quota, the Minister of Agriculture guaranteed an increased price, this

plan having been designed to increase the domestic price. A wheat control board was established by the Wheat Industry Control Act, No. 58, of 1935. The Customs and Excise Amendment Act of Southern Rhodesia, 1935, included antidumping provisions.

Uruguay.--A law effective on December 26, 1935, provided for organization of a National Milk Producers' Cooperative to handle the national supply of milk and dairy products, with authority to expropriate processing plants, fix prices, and determine quantities to be handled. Government assistance to the live-stock industry, through bounties on exports and revaluation of land, was continued in 1935 and 1936.

Venezuela.--Under a decree of December 21, 1935, an export subsidy was granted to coffee growers. This was superseded by a decree on January 27, 1936, which granted subsidies to growers of coffee and other agricultural products, and export subsidies on coffee, cacao, sugar, cattle, hides and other cattle products, timber and other forest products, oleaginous seeds and their produce, fruits and vegetables, rum and alcohol, tobacco and its products, and corn and its products.

Yugoslavia.--A decree dated December 14, 1935, extended supervisory powers of the Government under the Cartel Act of 1934, and prescribed procedure for the Ministry of Commerce and Industry and the Cartel Court.

FISCAL AFFAIRS

FISCAL AFFAIRS

APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation Act, 1936 (Public, No. 2, 74th Cong.), approved February 2, 1935, provides funds for the fiscal year 1936 for the Federal Trade Commission as follows:

For five commissioners, and for all other authorized expenditures of the Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including secretary to the Commission and other personal services, contract stenographic reporting services ; supplies and equipment, law books, books of reference, periodicals, garage rentals, traveling expenses, including not to exceed \$900 for expenses of attendance, when specifically authorized by the Commission, at meetings concerned with the work of the Federal Trade Commission, for newspapers and press clippings not to exceed \$400, foreign postage, and witness fees and mileage in accordance with section 9 of the Federal Trade Commission Act ; \$1,373,309: *Provided*, That the Commission may procure supplies and services without regard to section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5) when the aggregate amount involved does not exceed \$50.

For all printing and binding for the Federal Trade Commission, \$30,000.

Total, Federal Trade Commission, \$13,309.

The First Deficiency Appropriation Act, fiscal year 1935 (Public., No.21, 74th Cong.), approved March 21, 1935, provides as follows:

For an additional amount for the Federal Trade Commission, including the same objects specified under this caption in title I, Independent Offices Appropriation Act, 1935, \$110,000, to remain available until June 30, 1936.

The Second Deficiency Appropriation Act, fiscal year 1935 (Public, No.260, 74th Cong.), approved August 12, 1935, provides as follows:

Salaries and expenses.--For an additional amount for the Federal Trade Commission, including the same objects specified under this

head in the Independent Offices Appropriation Act, 1936, including \$4,000 for printing and binding, \$200,000, to remain available until December 31, 1936.

The Supplemental Appropriation Act, fiscal year 1936 (Public, No.440, 74th Cong.), approved February 11, 1936, provides as follows:

Salaries and expenses.--For an additional amount for the Federal Trade Commission, including the same objects specified under this head in the Independent Offices Appropriation Act, 1936, fiscal year 1936, \$150,000.

Printing and binding.--For the printing of 10,000 additional copies of no. 71-A of Senate Document 92, Seventieth Congress, first session, \$2,800.

ALLOTMENTS FROM OTHER APPROPRIATIONS

In addition to the foregoing direct appropriations, the Administrator of Public Works, by letter of December 28, 1935, to the Secretary of the Treasury, allotted to the Federal Trade Commission \$150,000 out of the funds appropriated in the Fourth Deficiency Act, fiscal year 1933 (Public, No.77, 73d Cong.), approved June 16, 1933, to carry into effect the provisions of the National Industrial Recovery Act (Public, No.67, 73d Cong.), approved June 16, 1933.

At the beginning of the fiscal year there was available to the Federal Trade Commission a balance of \$18,091.08 from an allotment by the Administrator for Industrial Recovery made by letter of January 26, 1934, to the chairman. The money so allotted came out of funds appropriated in the Fourth Deficiency Act, fiscal year 1933, for the National Recovery Administration.

Balance of allotment in the sum of \$1,265.50 made by the President, October 1, 1934, out of funds appropriated in the Emergency Appropriation Act, fiscal year 1935 (Public, No.412, 73d Cong.), approved June 19, 1934.

APPROPRIATIONS, ALLOTMENTS, AND EXPENDITURES

Appropriations available to the Commission for the fiscal year ended June 30, 1936, under the Independent Offices Act approved February 2, 1935, \$1,403,309 ; under the Deficiency Act approved March 21, 1935, \$110,000 ; under the Second Deficiency Act approved August 12, 1935, \$200,000; under the Supplemental Appropriation Act approved February 11, 1936, \$152,800; in all, \$1,866,109. This sum was made up of three separate items: (1) \$50,000 for sala-

APPROPRIATIONS, ALLOTMENTS, AND EXPENDITURES 129

ries of the Commissioners, (2) \$1,776,509 for the general work of the Commission, and (3) \$36,800 for printing and binding.

In addition there were allotted funds by the President from the National Industrial Recovery Act, 193337, in the sum of \$150,000; available allotment balance from the National Recovery Administration, \$18,091.08, and available balance of allotment by the President from the Emergency Relief and Public Works Fund of \$1,265.50 ; a total of \$169,356.58 in allotted funds.

Appropriations, allotments, expenditures, liabilities, and balances

	Amount available	Amount expended	Liabilities	Expendi- ture, and liabilities	Balances
Federal Trade Commission, 1936, salaries, Commis- sioners, and all other author- ized expenses	\$1,523,309.00	\$1,508,045.72	\$15,175.73	\$1,523,221.45	\$87.55
Printing and binding, Federal Trade Commission, 1936	32,800.00	22,999.63	9,800.37	32,800.00	
Federal Trade Commission, 1935-36	110,000.00	109,218.09	781.91	110,000.00	
Federal Trade Commission 1936, Dec. 31, 1936	196,000.00	97,428.06	1,800.00	99,228.06	1 96,771.91
Printing and binding, Federal Trade Commission 1936, Dec.31, 1936	4,000.00	146.05	50.00	196.05	1 3,803.95
National Industrial Recovery, Federal Trade Commission, 1933-37	150,000.00	46,833.95	46,833.95	103,1611.05	
Working fund, Federal Trade Commission, National Recovery Administration	18,091.08	8,180.80	8,180.80	9,910.28	
Emergency relief and public works, Federal Trade Com- mission, investigation of textile industry	1,265.50	1,265.50		1,265.50	
Total fiscal year 1936	2,035,465.58	1,794,117.80	27,608.01	1,821,725.81	213,739.77
Unexpended balances:					
Federal Trade Commission, 1935	60,901.73	58,566.02	345.22	58,911.24	1,995.49
Printing and binding, Federal Trade Commission. 1935	11,777.80	11,777.80		11,777.80	
Federal Trade Commission, 1914-35	6,541.25	6,270.80		6,270.80	270.45
Federal Trade Commission, 1934	472.19	103.90		103.90	368.29
Federal Trade Commission, 1933-34	259.31	1.85		1.85	257.46
Federal Trade Commission, 1933	997.29	5.25		5.25	992.04
Federal Trade Commission, 1932-33	158.25				158.25
Federal Trade Commission, 1931	25.00	2 50.00		2 50.00	75.00
Federal Trade Commission, Certified Claims	159.87	159.87		159.87	

Total	2,116,763.27	1,870,953.29	27,953,23	1,898,908.52	217,856.76
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1 Available during the first half of the fiscal year 1937.

2 Credit.

Detailed statement of costs for the fiscal year ending June 30, 1936

	Salary	Travel expense	Other	Total
Commissioners	\$48,443.67	\$94.38		\$48,538.05
Clerks to Commissioners	14,637.61			14,637.61
Messengers to Commissioners	6,233.88			6,223.88
Total	69,315.16	94.38		69,409.54
Administration:				
Office of Secretary	25,867.59			25,867.59
Accounts and personnel section	25,770.95			25,770.95
Docket section	35,963.85			35,963.85
Hospital	1,798.15			1,798.15
Labor	2,533.18			2,533.18
Library section	13,320.26			13,320.26
Mail and file section	16,223.48			16,223.48
Messenger service	14,575.70			14,575.70
Public relations	15,600.64			15,600.64
Publications section	27,535.59			27,535.59
Purchases and supplies section	14,455.25			14,455.25
Stenographic section	90,507.62			90,507.62
Communications			\$11,413.61	11,413.61
Equipment			55,894.10	55,894.10
Miscellaneous			223.55	223.55
Rents			1,891.69	1,891.69
Repairs			6,632.34	6,632.34
Reporting service			327.34	327.34
Supplies			27,376.01	27,376.01
Transportation of things			2,266.54	2,266.54
Witness fees			3,028.50	3,028.50
Total	284,152.26		109,053.68	393,205.91
Legal:				
Application for complaints	160,266.41	19,444.73	818.42	180,523.56
Complaints	242,653.83	49,028.71	237.52	291,920.06
Export trade	7,167.55	10.80		7,178.35
National Recovery Administration	39.45	1,250.98		1,296.43
Preliminary inquiries	220,820.70	20,279.59	470.53	241,570.82
Trade practice conferences	52,295.02	68.25		52,363.27
Total	613,236.96	90,089.06	1,526.47	774,852.49
General investigations:				
Amended steel code	201.29			201.29
Cement Industry	27.07			27.07
Chain stores		83.52		83.52
Cottonseed	381.03			391.63
Farm products	131,830.79	22,885.16	100.00	154,815.95
Milk investigation	84,659.25	18,754.96	325.75	103,739.96
Petroleum decree, 1936	4,363.20			4,303.20
Power and gas	230,304.49	38,118.53	1,535.61	269,958.63
Price bases	3,506.41	124.63		3,631.04
Resale price maintenance	17.08			17.08
Rural Electrification Administration	413.02			413.02
Securities		79.51		79.51
Senate Munitions Committee	215.13			215.13
Steel industry codes		7.49		7.49
Steel bids (steel sheet piling)				
Presidential request, Nov. 11, 1935	6,590.05	976.93		7,567.58
Textile	52,772.27	56.49	231.58	53,060.34
Total	515,281.68	81,087.22	2,192.94	598,501.84
Printing and binding			34,923.48	34,923.48
Total			34,923.48	34,923.48
Summary:				

Commissioners	69,315.16	94.38	69,409.54
Administration	284,152.26		109,053.68 393,205.94
Legal	683,216.96	90,089.06	1,526.47 774,852.49
General investigation	515,281.68	81,087.22	2,192.94 598,561.84
Printing and binding			34,923.48 34,923.48
Total	1,551,986.66	171,270.66	147,696.57 1,870,953.29

Detailed statement of costs for the fiscal year ending June 30, 1936--Continued

Recapitulation of costs by divisions

	Salary	Travel expense	Other	Total
Administrative	\$359,638.75	\$94.33	39,836.39	\$499,569.52
Economic	423,136.92	59,770.49	1,867.19	484,774.60
Chief counsel	193,876.47	31,179.76	3,407.98	228,464.21
Chief examiner	412,043.68	66,521.53	2,543.75	481,108.96
Special board or Investigation	58,995.77	78.56	41.26	59,115.59
Trial examiner	70,740.72	13,478.18		84,218.90
Trade practice conferences	33,513.75	68.25		33,622.00
Securities		79.51		79.51
Total	1,551,986.06	171,270.66	147,696.57	1,870,953.29

Appropriations available to the Commission since its organization and expenditures for the same period, together with the unexpended balances, are shown by the following table:

Year	Appropriations	Expenditures	Balance	Year	Appropriations	Expenditures	Balance
1915	\$184,016.23	\$90,442.05	\$93,574.18	1926	1,008,000.00	996,745.58	11,254.42
1916	430,964.08	379,927.41	51,036.67	1927	\$997,000.00	\$960,654.71	\$36,345.29
1917	567,025.92	472,501.20	94,524.72	1928	984,350.00	972,966.64	11,383.96
1918	1,608,865.92	1,462,187.32	156,678.60	1929	1,163,192.62	1,169,459.76	3,732.77
1919	1,753,530.75	1,522,331.95	231,198.50	1930	1,495,821.69	1,494,619.69	1,202.00
1920	1,305,708.82	1,120,301.32	186,407.80	1931	1,863,348.42	1,861,971.72	1,376.70
1921	1,032,005.67	938,659.69	93,345.98	1932	1,817,382.49	1,778,427.88	38,954.61
1922	1,026,150.54	956,116.50	70,034.04	1933	1,426,714.70	1,393,427.90	33,286.80
1923	974,480.32	970,119.66	4,360.66	1934	1,314,013.49	1,313,614.33	399.16
1924	1,010,000.00	977,018.28	32,981.72	1935	2,097,397.01	1,956,313.34	141,083.67
1925	1,010,000.00	1,008,998.80	1,001.20	1936	2,035,466.58	1,821,725.81	213,739.77

APPENDIXES

FEDERAL TRADE COMMISSION ACT

SHERMAN ACT

CLAYTON ACT

ROBINSON-PATMAN ANTI-PRICE DISCRIMINATION ACT

EXPORT TRADE ACT

RULES OF PRACTICE

INVESTIGATIONS, 1915-1936

FEDERAL TRADE COMMISSION ACT

(15 U.S. C., Secs. 41-58)

AN ACT To create a Federal Trade Commission, to define its powers and duties, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission) , which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed : *Provided, however,* That upon the expiration of his term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The Commission shall choose a chairman from its own membership. No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the Commission shall not impair the right of the remaining commissioners to exercise all the powers of the Commission.

The Commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint secretary who shall receive a salary of \$5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the Commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the Commission and by the Civil Service Commission.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making *any* investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

Until otherwise provided by law, the commission may rent suitable offices for its

use.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the Commission.

SEC. 3. That upon the organization of the Commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the Commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the Commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the Commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent

appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the Commission in the exercise of the powers, authority, and duties conferred on it by this Act.

The principal office of the Commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The Commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 4. That the words defined in this section shall have the following meaning when found in this Act, to wit :

“Commerce” means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

“Corporation” shall be deemed to include any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members, and has shares of capital or capital stock or certificates of interest, and any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, without shares of capital or capital stock or certificates of interest, except partnerships, which is organized to carry on business for its own profit or that of its members.

“Documentary evidence” includes all documents, papers, correspondence, books of account, and financial and corporate records.

“Acts to regulate commerce” means the Act entitled “An Act to regulate commerce,” approved February 14, 1887, and all Acts amendatory thereof and supplementary thereto and the Communications Act of 1934 and all Acts amendatory thereof and supplementary thereto.

“Antitrust Acts” means the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July 2, 1890; also sections 73 to 77, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved August 27, 1894; also the Act entitled “An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February 12, 1913; and also the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October 15, 1914.

Sec. 5. That unfair methods of competition in commerce are hereby declared unlawful.

The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers, subject to the acts to regulate commerce, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person,

partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission. upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as

hereinafter provided, the commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person, partnership, or corporation fails or neglects to obey such order of the commission while the same is in effect, the commission may apply to the circuit court of appeals of the United States, within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which if supported by testimony, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission to cease and desist from using such method of competition may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission be set aside. A copy of such petition shall be forth-with served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission as in the case of an application by the commission for the enforcement of its order, and the findings of the commission as to the facts, if supported by testimony, shall in like manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or judgment of the court to enforce the same shall in any wise relieve or absolve any person, partnership, or corporation from any liability under the antitrust acts.

Complaints, orders, and other processes of the commission under this section may be served by anyone duly authorized by the commission, either (a) by delivering a

copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or *(b)* by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or *(c)* by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

SEC. 6. That the commission shall also have power--

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks, and common carriers

subject to the act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks and common carriers subject to the act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General, it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the commission.

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this act.

(h) To investigate, from time to time, trade conditions in and with foreign countries, where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a matter in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the

nature of the case may in its judgment require.

SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information' in their possession relating to any corporation subject to any of the provisions of this act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 9. That for the purposes of this act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and

members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission' may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such deposition may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall

willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence, of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

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If any corporation required by this act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punishable by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 11. Nothing contained in this act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust act or the acts to regulate commerce, nor shall anything contained in the act be construed to alter, modify, or repeal the said antitrust acts or the acts to regulate commerce or any part or parts thereof.

Approved, September 26, 1914.

SHERMAN ACT

(U.S.C., Title 15, Sec. 1)

SECTION 1. Every contract, combination the form of trust or otherwise, conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 2. Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the. trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States; in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just the premises.

SEC. 5. Whenever it shall appear to the court before which any proceeding under section four of this act may be pending, that the ends of justice require that other parties should be brought before the court; the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

SEC. 6. Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned section one of this act, and being in the course of transportation from one State to another, or to a foreign. country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

SEC. 7 Any person who shall be injured in his business or property by any other

person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

SEC. 8. That the word "person", or "persons", wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

Approved, July 2, 1890.

**SECTIONS OF THE CLAYTON ACT ADMINISTERED
BY THE FEDERAL TRADE COMMISSION**

(U.S.C., Title 15, Sec. 12)

AN ACT To supplement existing laws against unlawful restraints and monopolies, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States Of America in Congress assembled, That “antitrust laws,” as used herein, includes the Act entitled “An Act to protect trade and commerce against unlawful restrains and monopolies,” approved July second, eighteen hundred and ninety: sections seventy-three to seventy-seven, inclusive, of an Act entitled, “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled “An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February twelfth, nineteen hundred and thirteen; and also this Act.

“Commerce,” as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the Jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the Jurisdiction of the United States: *Provided,* That nothing in this Act contained shall apply to the Philippine Islands.

The word “person” or “persons” wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States the laws of any of the Territories, the laws of any State; or the laws of any foreign country.

SEC. 2. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided,* That nothing herein contained shall prevent discrimination in price between purchasers, of commodities, on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of Selling or transportation, or discrimination in price in the same or different communities made in good faith to meet competition: *And provided further,* That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

SEC. 3. That it shall be unlawful for any person engaged in commerce, in the course

of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

* * * * *

SEC. 7. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*. That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

SEC. 8. * * * That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000 engaged in whole or in part in commerce other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location

of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any

of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

* * * * *

SEC. 11. That authority to enforce compliance with sections two, three, seven, and eight of this Act by the persons respectively subject thereto is hereby vested: in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the commission, authority, or board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections two, three, seven, and eight of this Act, it shall issue and serve upon such person a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission, authority, or board requiring such person to cease and desist from the violation of the law so charged in said complaint. Any person may make application, and upon good cause shown, may be allowed by the commission, authority, or board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission, authority, or board. If upon such bearing the commission, authority, or board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock held or rid itself of the directors chosen contrary to the provisions of sections seven and eight of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission, authority, or board may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside in whole or in part, any report, or any order made or issued by it under this section.

If such person fails or neglects to obey such order of the commission, authority, or board while the same is in effect, the commission, authority, or board may apply to the circuit court of appeals of the United States, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission, authority, or board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying,

or setting aside the order of the commission, authority, or board. The findings of the commission, authority, or board as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, authority, or board, the court may order such additional evidence to be taken before the commission, authority, or board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission, authority, or board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The Judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court

upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission, authority, or board to cease and desist from a violation charged may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission, authority, or board be set aside. A copy of such petition shall be forthwith served upon the commission, authority, or board, and thereupon the commission, authority, or board forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission, authority, or board as in the case of an application by the commission, authority, or board for the enforcement of its order, and the findings of the commission, authority, or board as to the facts, if supported by testimony, shall in like manner be conclusive.

The Jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission, authority, or board shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission, authority, or board or the judgment of the court to enforce the same shall in any wise relieve or absolve any person from any liability under the antitrust Acts.

Complaints, orders, and other processes of the commission, authority, or board under this section may be served by anyone duly authorized by the commission, authority, or board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

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Approved October 15, 1941.

[The foregoing excerpts from the Clayton Act are published as effective during substantially the entire fiscal year covered by this report, i.e., the 12 months ending June 30, 1936. For text of sec.2 as amended by the Robinson-Patman Anti-price Discrimination Act, approved June 19, 1936, see text of said act beginning on p.146.]

ROBINSON-PATMAN ANTI-PRICE DISCRIMINATION ACT

[PUBLIC--No. 692--74TH CONGRESS]

[H. R. 8442]

AN ACT

To amend section 2 of the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), is amended to read as follows:

“SEC. 2. (a) That it shall be unlawful for any person engaged in commerce in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition. or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided*, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: *Provided, however*, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the fore going shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: *And provided further*, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to

actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

“(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima-facie

case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

“(c) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

“(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

“(e) That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

“(f) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this section.”

SEC. 2 That nothing herein contained shall affect rights of action arising, or litigation pending, or orders of the Federal Trade Commission issued and in effect or pending on review, based on section 2 of said act of October 15, 1914, prior to the effective date of this amendatory act: *Provided*, That where, prior to the effective date of this amendatory act, the Federal Trade Commission has issued an order requiring any person to cease and desist from a violation of section 2 of said act of October 15, 1914, and such order is pending on review or is in effect, either as issued or as affirmed or modified by a court of competent jurisdiction, and the Commission shall have reason to believe that such person has committed, used, or carried on since the effective date of this mandatory act, or is committing, using, or carrying on any act, practice, or method in violation of any of the provisions of said section 2 as amended by this act; it may reopen such original proceeding and may issue and serve upon such person its complaint, supplementary to the original complaint, stating its charges in that respect. Thereupon the same proceedings shall be had upon such supplementary complaint as provided in section 11 of said act of October 15, 1914. If upon such hearing the commission shall be of the opinion that any act, practice, or method charged in said supplementary complaint has been committed, used, or carried on since the effective date of this amendatory act, or is being committed, used, or carried on in violation of said section 2 as amended by this act, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and serve upon such

person its order modifying or amending its original order to include any additional violations of law so found. Thereafter the provisions of section 11 of said act of October 15, 1914, as to review and enforcement of orders of the commission shall in all things apply to such modified or amended order. If upon review as provided in said section 11, the court shall set aside such modified or amended order, the original order shall not be affected thereby, but it shall be and remain in force and effect as fully and to the same extent as if such supplementary proceedings had not been taken.

SEC. 3. It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service

charge is granted to the purchaser over and above any discount, rebate, allowance or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both.

SEC. 4. Nothing in this act shall prevent a cooperative association from returning to its members, producers, or consumers the whole, or any part of the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association.

Approved, June 19, 1936.

EXPORT TRADE ACT

An Act to promote export trade, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the words “export trade” wherever used in this Act mean solely trade or commerce in goods, wares, or merchandise exported, or in the course of being exported from the United States or any Territory thereof to any foreign nation; but the words “export trade” shall not be deemed to include the production, manufacture, or selling for consumption or for resale, within the United States or any Territory thereof, of such goods, wares, or merchandise, or any act in the course of such production, manufacture, or selling for consumption or for resale.

That the words “trade within the United States” wherever used in this Act mean trade or commerce among the several States or in any Territory of the United States, or in the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

That the word “Association” wherever used in this Act means any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations.

SEC. 2. That nothing contained in the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July second, eighteen hundred and ninety, shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, or an agreement made or act done in the course of export trade by such association, provided such association, agreement, or act is not in restraint of trade within the United States, and is not in restraint of the export trade of any domestic competitor of such association: *And provided further,* That such association does not, either in the United States or elsewhere, enter into any agreement, understanding, or conspiracy, or do any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein.

SEC. 3. That nothing contained in section seven of the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October fifteenth, nineteen hundred and fourteen, shall be construed to forbid the acquisition or ownership by any corporation of the whole or any part of the stock or other capital of any corporation organized solely for the purpose of engaging in export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

SEC. 4. That the prohibition against “unfair methods of competition” and the remedies provided for enforcing said prohibition contained in the Act entitled “An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes”, approved September twenty-sixth, nineteen hundred and fourteen, shall be construed as extending to unfair methods of competition used in export trade against competitors engaged in export trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

SEC. 5. That every association now engaged solely” in export trade, within sixty days after the passage of this Act, and every association entered into hereafter which engages solely in export trade, within thirty days after its creation, shall file with the Federal Trade Commission a verified written

statement setting forth the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated, a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and changes in its articles or certificate of incorporation or in its articles or contract of association. It shall also furnish to the commission such information as the commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals. Any association which shall fail so to do shall not have the benefit of the provisions of section two and section three of this Act, and it shall also forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the association has its principal office, or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of the forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Whenever the Federal Trade Commission shall have reason to believe that an association or any agreement made or act done by such association is in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, or that an association either in the United States or elsewhere has entered into any agreement, understanding, or conspiracy, or done any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein, it shall summon such association, its officers, and agents to appear before it, and thereafter conduct an investigation into the alleged violations of law. Upon investigation, if it shall conclude that the law has been violated, it may make to such association recommendations for the readjustment of its business, in order that it may thereafter maintain its organization and management and conduct its business in accordance with law. If such association fails to comply with the recommendations of the Federal Trade Commission, said commission shall refer its findings and recommendations to the Attorney General of the United States for such action thereon as he may deem proper.

For the purpose of enforcing these provisions the Federal Trade Commission shall have all the powers, so far as applicable, given it in "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

Approved, April 10, 1918.

RULES OF PRACTICE

RULE I. THE COMMISSION

Offices.--The principal office of the Commission is at Washington, D. C.

All communications to the Commission must be addressed to: Federal Trade Commission, Washington, D. C., unless otherwise specifically directed.

Branch offices are maintained at New York, Chicago, San Francisco, Seattle, and New Orleans.

Their addresses are: Federal Trade Commission, room 509, 45 Broadway, New York, N. Y.; Federal Trade Commission, 1118 New Post Office Building, 433 West Van Buren Street, Chicago, Ill.; Federal Trade Commission, 707 Flatiron Building 544 Market Street, San Francisco, Calif.; Federal Trade Commission, 801 Federal Building, Seattle, Wash.

Hours.--Offices are open on each business day, except Saturday, from 9 a. m. to 4:30 p.m., and on Saturdays from 9 a. m. to 1 p.m.

Sessions.--The Commission may meet and exercise all its powers at any place, and may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

Sessions of the Commission for hearings will be held as ordered by the Commission.

Sessions of the Commission for the purpose of making orders and for transaction of other business unless otherwise ordered will be held at the principal office of the Commission at Pennsylvania Avenue at Sixth Street, Washington, D. C., on each business day at 10 a. m.

Quorum.--A majority of the members of the Commission shall constitute a quorum for the transaction of business.

RULE II. THE SECRETARY

The Secretary shall sign all orders of the Commission.

RULE III. SERVICE

Complaints, orders, and other processes of the Commission, and briefs in support of the Complaint, will be served by the secretary of the Commission by registered mail, except when service by other method shall be specifically ordered by the Commission, by registering and mailing a copy thereof addressed to the person, partnership, or corporation to be served at his or its principal office or place of business. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

When service is not accomplished by registered mail complaints, orders, or other processes of the Commission, and briefs in support of the complaint may be served by anyone duly authorized by the Commission, or by any examiner of the Commission--

(a) By delivering a copy of the document to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or

(b) By leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation.

The return post-office receipt for said complaint, order, or other process or brief registered and mailed as aforesaid, or the verified return by the person serving such complaint, order, or other process or brief, setting forth the manner of said service,

shall be proof of the service of the document.

RULE IV. APPEARANCE

Any individual or member of a partnership which is a party to any proceeding before the Commission may appear for himself, or such partnership upon adequate identification, and a corporation or association may be represented by a bona fide officer of such corporation or association upon a showing of adequate authorization therefor.

A party may also appear by an attorney at law possessing the requisite qualifications, as hereinafter set forth, to practice before the Commission.

Upon application and for good cause shown, the commission, in its discretion, may permit a party to be represented by any person having requisite qualification to represent others.

Attorneys at law who are admitted to practice before the Supreme Court of the United States, or the highest court of any State or Territory of the United States, or the United States Court of Appeals for the District of Columbia, or the District Court of the United States for the District of Columbia, may practice before the Commission.

No register of attorneys who may practice before the Commission is maintained. No application for admission to practice before the Commission is required. A written notice of appearance on behalf of a specific party or parties in the particular proceeding should be submitted by attorneys desiring to appear for such specific party or parties, which notice shall contain a statement that the attorney is eligible under the provisions of this rule. Any attorney practicing before the Commission or desiring so to practice may, for good cause shown, be disbarred or suspended from practicing before the Commission, but only after he has been afforded an opportunity to be heard in the matter.

RULE V. DOCUMENTS

Filing.--All documents required to be filed with the Commission in any proceeding shall be filed with the Secretary of the Commission.

Title.--Documents shall clearly show the docket number and title of the proceeding.

Copies.--Documents, other than correspondence, shall be filed *in triplicate*, except as otherwise specifically required by these rules.

Form.--Documents not printed shall be typewritten, on one side of paper only; letter size, eight and one-half (8 ½) inches by ten and one-half (10 ½) inches; left margin, one and one-half (1 ½) inches; right margin, one (1) inch.

Documents may be printed, in ten (10) or twelve (12) point type, on good, unglazed paper, of the dimensions and with the margins above specified.

Documents shall be bound at *left side only*.

RULE VI. COMPLAINTS

Any person, partnership, corporation or association may apply to the Commission to institute a proceeding in respect to any violation of law over which the Commission has jurisdiction.

Such application for complaint shall be in writing, signed by or in behalf of the applicant and shall contain a short and simple statement of the facts constituting the alleged violation of law and the name and address of the applicant and of the party complained of.

The Commission shall investigate the matters complained of in such application, and if upon investigation made either on its own motion or upon application, the Commission shall have reason to believe that there is a violation of law over which the Commission has jurisdiction, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, the Commission shall issue, and serve upon the party complained of, a complaint stating its charges and containing a notice of a hearing upon a day and at a place therein fixed, at least 80 days after the service of said complaint.

RULE IX. ANSWERS

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Four copies of answers shall be furnished. All answers shall be signed in ink, by the respondent or by his attorney at law. Corporations or associations shall file answers through a

bona fide officer or by an attorney at law. Answers shall show the office and post-office address of the signer.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve up on respondent:

(a) In cases arising under section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under sections 2 and 3 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purpose" (the Clayton Act,) or under section 2 of the aforesaid Clayton Act as amended by "An act to amend section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U.S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint

(b) In cases arising under section 7 of the said act of Congress approved October 15, 1914 (the Clayton Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint and to divest itself of the stock found to be held contrary to the provisions of said section 7 of said Clayton Act;

(c) In cases arising under section 8 of the said act of Congress approved October 15, 1914 (the Clayton Act), findings of fact and an order to cease and desist from the violation of law charged in the complaint and to rid itself of the directors found to have been chosen contrary to the provisions of said section 8 of said Clayton Act.

RULE VIII. MOTIONS

A motion in a proceeding by the Commission shall briefly state the nature of the order applied for and all affidavits, records, and other papers upon which the same is founded, except such as have been previously filed or served the same proceeding, shall be filed with such motion and plainly referred to therein.

Three copies of the motion shall be filed.

RULE IX. CONTINUANCES AND EXTENSIONS OF TIME

The Commission may, in its discretion, grant continuances, or, on good cause shown, in writing, extend time fixed in these rules.

Applications for continuances and extensions of time prescribed by these rules should be made prior to the expiration of time so prescribed.

RULE X. INTERVENTION

Any person, partnership, corporation, or association desiring to intervene in a contested proceeding shall make application in writing, setting out the grounds on which he or it claims to be interested.

The Commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem just.

RULE XI. HEARINGS ON COMPLAINTS

All hearings before the Commission or trial examiners on complaints issued by the Commission shall be public, unless otherwise ordered by the Commission.

Upon the joining of issue in a proceeding upon complaint issued by the Commission, the

examination of witnesses therein shall proceed with all reasonable diligence and with the least practicable delay.

Not less than five (5) days notice of the time and place of the initial examination of witnesses before the Commission, a Commissioner, or an examiner, shall be given by the Commission to counsel or parties.

RULE XII. HEARINGS ON INVESTIGATIONS

When a matter for investigation is referred to a single Commissioner, or examiner, for examination or report, such Commissioner, or examiner, may

conduct or hold conferences or hearings thereon, either alone or with other Commissioners who may sit with him, and reasonable notice of the time and place of such hearings shall be given to parties in interest and posted.

The chief counsel, or such attorney as shall be designated by him, or by the Commissioner, or by the Commission, shall attend such hearings and prosecute the investigation, which hearings shall be public, unless otherwise ordered by the Commission.

RULE XIII. TRIAL EXAMINERS

Duties.--When evidence is to be taken in a proceeding upon complaint issued by the Commission, a trial examiner shall be designated for that purpose by the Commission.

It shall be the duty of the trial examiner to complete the taking of evidence with all due dispatch.

The trial examiner shall state the place, day, and hour to which the taking of evidence may from time to time be adjourned.

Reports.--The trial examiner shall, within fifteen (15) days after receipt by him of the complete stenographic transcript of all testimony in a proceeding, make his Report upon the Facts.

He shall forthwith serve a copy of the report upon each attorney for the Commission, upon each attorney for respondents, and upon each respondent not represented by counsel.

The report of the trial examiner is not a decision, finding, or ruling of the Commission. It is not a part of the record of the proceeding, and is not a public document.

The Commission's findings as to the facts are based upon the record.

RULE XIV. EXCEPTIONS

Attorneys or other persons served with a copy of the report of the trial examiner may, within ten (10) days after receipt of such copy of report, file, in writing, their exceptions, if any, to the report.

They shall specify the particular part or parts of the report to which exception is made, and the exceptions shall include any additional facts which the person filing the exception may deem proper.

Citations to the record shall be made in support of the exceptions.

Seven (7) copies of the exceptions, signed, in ink, shall be filed.

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits.

Exceptions are not a part of the record of the proceeding.

RULE XV. STATEMENTS OF FACTS

When, in the opinion of the trial examiner engaged in taking evidence in any proceeding upon complaint issued by the Commission, the size of the transcript, or complication or importance of the issues involved warrants, he may, of his own motion, or at the request of counsel, at the close of taking evidence, announce to attorneys for the Commission and for respondents that the trial examiner will receive, within five (5) days after the closing of the taking of evidence, and not later, a statement, in writing, one by attorneys for the Commission and one by attorneys for the respondents, setting forth, in terse outline, the contentions of each as to the facts proved in

the proceeding.

Statements of facts are not to be exchanged between counsel, and are not to be argued before the trial examiner.

Statements of facts are not a part of the record of the proceeding.

RULE XVI. SUBPOENAS

Subpoenas requiring the attendance of witnesses from any place in the United States, at any designated place of hearing, may be issued by any member of the Commission.

Subpoenas for the production of documentary evidence, unless issued by a member of the Commission upon his own motion, will be issued only upon application in writing. The application must be verified, and must specify, as exactly as possible, the documents desired and the facts to be proved by them.

RULE XVII. WITNESSES

Witnesses shall be examined orally, except that for good and exceptional cause for departing from the general rule the Commission may permit their testimony to be taken by deposition.

Witnesses summoned by the Commission shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

Witnesses whose depositions are taken, and the persons taking such depositions, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

Witness fees and mileage, and fees for depositions, shall be paid by the party at whose instance witnesses appear.

RULE XVIII. DEPOSITIONS

The Commission may order evidence to be taken by deposition in any proceeding or investigation pending at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths.

Unless notice be waived, no deposition shall be taken except after at least five (5) days' notice to the parties within the United States, and fifteen (15) days' notice when the deposition is to be taken elsewhere.

Any party desiring to take the deposition of a witness shall make application in writing, setting out the reasons why such deposition should be taken, and stating the time when, the place where, and the name and post office address of the person before whom it is desired the deposition be taken, the name and post office address of the witness, and the subject matter or matters concerning which the witness is expected to testify. If good cause be shown, the Commission will make and serve upon the parties, or their attorneys, an order wherein the Commission shall name the witness whose deposition is to be taken and specify the time when, the place where, and the person before whom the witness is to testify, but such time and place and the person before whom the deposition is to be taken, so specified in the Commission's order, may or may not be the same as those named in said application to the Commission.

The testimony of the witness shall be reduced to writing by the officer before whom the deposition is taken, or under his direction, after which the deposition shall be subscribed by the witness and certified in usual form by the officer. After the deposition has been so certified, it shall, together with three additional copies thereof made by such officer or under his direction, be forwarded by such officer under seal in an envelope addressed to the Commission at its office in Washington, D. C. Such deposition, unless otherwise ordered by the Commission for good cause shown, shall be filed in the record in said proceeding and a copy thereof supplied to the party upon whose application said deposition was taken, or his attorney.

Depositions shall be typewritten, on one side of paper only; letter size, eight and one-half (8 ½) inches by ten and one-half (10 ½) inches; left margin one and one-half (1 ½) inches; right margin, one (1) inch.

Depositions shall be bound *at left side only*

RULE XIX. EVIDENCE

Documentary.--Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be put in evidence, such immaterial or irrelevant parts shall be excluded, and shall be segregated insofar as practicable.

Objections.--Objections to the evidence before the Commission, a Commissioner, or an examiner shall, in any proceeding, be in short form, stating the grounds of objections relied upon, and no transcript filed shall include argument or debate.

RULE XX. BRIEFS

Filing.--All briefs must be filed with the secretary of the Commission within the time limits fixed by these rules.

Briefs tendered after expiration of the times fixed will be filed only by special permission of the Commission.

Appearance of additional counsel in a case will not constitute grounds for extending time for filing briefs.

Time.--Opening brief in support of the complaint shall be filed by the trial attorney of the Commission within twenty (20) days after service upon him of copy of the report of the trial examiner.

Brief on behalf of respondent shall be filed within twenty (20) days after service upon respondent or respondent's attorney of copy of brief in support of the complaint.

Reply briefs in support of the complaint, if any, shall be filed within ten (10) days after filing of brief on behalf of respondent.

Number.--Twenty (20) copies of each brief shall be filed.

Contents.--Briefs, except the reply brief on behalf of the Commission shall contain, in the following order:

(a) A concise abstract or statement of the case;

(b) A brief of the argument, exhibiting a clear statement of the points of fact or law to be discussed, with references to the pages of the record and the authorities relied upon in support of each point;

(c) The exceptions, if any, to the report of the trial examiner.

Index.--Briefs comprising more than ten (10) pages shall contain on their top fly leaves a subject index with page references. The subject index shall be supplemented by an alphabetical list of all cases referred to, with references to pages where references are cited.

Reply briefs.--Reply brief in support of the complaint shall be filed only when recommended by the chief counsel, and shall be strictly in answer to brief on behalf of respondent.

No reply brief on behalf of respondent shall be filed.

Form.--Briefs on behalf of respondent shall be printed in ten (10) or twelve (12) point type; on good, unglazed paper, size eight and one-half (8 ½) by ten and one-half (10½) inches; left margin of one and one-half (1½) inches, right margin of one (1) inch; with double-leaded text and single-leaded citations.

RULE XXI.--ORAL ARGUMENT

Oral arguments shall be had only as ordered by the Commission, on written application of the chief counsel of the Commission, or of the respondent, or of attorney for respondent, filed within fifteen (15) days after filing of brief on behalf of respondent.

Appearance of additional counsel in a case will not constitute grounds for extending time for oral argument.

RULE XXII.--REPORTS SHOWING COMPLIANCE WITH ORDERS

In every case where an order is issued by the Commission for the purpose of preventing violations of the law, the respondent or respondents therein named shall file with the Commission, within the time specified in said order, a report, in writing, setting forth in detail the manner and form in which respondent or respondents have complied with the said order of the Commission. Within its sound discretion the Commission may require any such respondent or respondents, from time to time thereafter, to file further reports in writing, setting forth in detail the manner and form in which they are complying with the said order.

Reports of compliance shall be signed, in ink, by respondent or attorney for respondent.

RULE XXIII.--REOPENING PROCEEDINGS

In any case where an order to cease and desist, an order dismissing a complaint, or other order disposing of a proceeding has been issued by the Commission, the Commission may, at any time within ninety (90) days after entry of such order, for good cause shown, in writing, and on notice to the parties, reopen the case for such further proceeding as to the Commission may seem proper.

INVESTIGATIONS BY THE COMMISSION, 1915-36

DESCRIPTIONS OF GENERAL INQUIRIES INCLUDING TITLES OF PUBLISHED REPORTS

General investigations of the Federal Trade Commission are described in the following paragraphs devoted to the more than 100 inquiries undertaken at the request of the Congress, the President, the Attorney General, other departmental heads, and on motion of the Commission in pursuance of certain provisions of its organic act.

Published reports of the Commission in connection with these inquiries are also listed, including the Senate and House Document numbers for those of the reports that were ordered printed by the Congress. Publications not designated by such document numbers were published as Commission reports. Many of these publications are now out of print and are so listed.

Accounting Systems.--This inquiry was made on motion of the Commission, with a view to improving accounting practices, and led to the publication of two reports, entitled *Fundamentals of a Cost System for Manufacturers* (31 pages), and *A System of Accounts for Retail Merchants* (19 pages, out of print), both published in 1916.

Agricultural Income.--This inquiry is being made pursuant to Public Resolution No. 61, Seventy-fourth Congress, first session, approved August 27, 1935, directing the Commission to investigate and report to the Congress the extent of the decline in agricultural income in recent years; the extent of increases or decreases in the income of principal corporations engaged in the sale, manufacture, warehousing, and processing of principal farm products, and find other pertinent facts. Seven principal farm commodities were chosen for investigation as comprising the leading sources of agricultural income; namely, dairy products, cotton, wheat, cattle, hogs, tobacco, and potatoes. The Commission transmitted to the Congress on December 26, 1935, its *Interim Report of the Federal Trade Commission on the Agricultural Income Inquiry*, which was printed as House Document No. 380, Seventy-fourth Congress, second session (6 pages). Under Public Resolution No. 112, Seventy-fourth Congress, second session, approved June 20, 1936, the investigation was extended to include specifically table and juice grapes and fresh fruits and vegetables. The investigation is pending. See page 27 of this volume. (See also Price Deflation.)

Bakeries.--At the request of the United States Food Administration the Commission made a brief report on the cost of bread, etc., which was printed, with other data, by the Food Administration, November 1917, and entitled *United States Food Administration, Report of the Federal Trade Commission, on Bakery Business in United States* (pages 5-13), (out of print).

Bread and Flour.--This inquiry was made pursuant to Senate Resolution 163, Sixty-eighth Congress, first session, Feb. 16, 1924. This resolution directed the Commission to investigate the production, distribution, transportation, and sale of flour and bread, showing costs, prices, and profits at each stage of the process of production and distribution; the extent and methods of price fixing, price maintenance, and price discrimination; concentration of control in the milling and baking industries; and

evidence indicating the existence of agreements, conspiracies, or combinations in restraint of trade. Two preliminary reports were issued, dealing with competitive conditions in flour milling and bakery combines and profits. The final report showed among other things that whole-sale baking in recent years had been generally profitable. It disclosed also price-cutting wars by big bakery combines and subsequent price-fixing agreements., Reports were issued entitled *Competitive Conditions in Flour Milling* (140 pages) (out of print), *Bakery Combines and Profits* (95 pages), printed as Senate Document No.212, Sixty-ninth Congress, second session, and *competi-*

tion and Profits in Bread and Flour (509 pages) printed as Senate Document No.98, Seventieth Congress, first session, May 3, 1926, February 11, 1927, and January 11, 1928, respectively. A supplementary report covering data withheld during court proceedings (Millers' National Federation against Federal Trade Commission) entitled *Conditions in the Flour Milling Business*, was transmitted to the Senate May 28, 1932, and printed as Senate Document No. 96, Seventy-second Congress, first session (26 pages). (See also Bakeries, Flour Milling, and Food Investigation.)

Calcium Arsenate.--This inquiry was made pursuant to Senate Resolution 417, Sixty-seventh Congress, fourth session, January 23, 1923. The high prices of calcium arsenate, a poison used to destroy the cotton boll weevil, led to this inquiry from which it appeared that the cause was due to the sudden increase in demand rather than to any restraints of trade. The report, entitled *Calcium Arsenate Industry*, was transmitted to the Senate March 3, 1923, and printed as Senate Document No.345, Sixty-seventh Congress, fourth session. (21 pages).

Cement Industry.--This inquiry was made pursuant to Senate Resolution 448, Seventy-first Congress, third session, February 16, 1931. This Resolution instructed the Commission to investigate competitive conditions and distributing processes in the cement industry to determine the existence, if any, of unfair trade practices or violations of the antitrust laws. The report indicated that rigid application of the multiple basing-point price system, universally used in the industry, tended to lessen price competition and destroy the value of sealed bids; that manufacturers in concert with dealer organizations had engaged in activities which strengthened the system's price effectiveness and that dealer's associations had engaged in practices designed to restrict sales to those recognized as legitimate dealers by the associations. It was indicated such practices also tended to control sales terms. This report reiterated certain findings and conclusions of the Commission's earlier report on the cement industry made as a part of the price bases inquiry. Entitled *Cement Industry*, the report was transmitted to the Senate June 9, 1933, and printed as Senate Document No.71, Seventy-third Congress, first session (160 pages). (See also Price Bases and Steel Investigations.)

Chain Stores.--This inquiry was made pursuant to Senate Resolution 224, Seventy-fourth Congress, first session, May 12, 1928. Under the Resolution the Commission was directed to ascertain the advantages and disadvantages of chain-store distribution as compared with other types of distribution and how far the increase in the former system depended upon quantity prices and whether or not such quantity prices were in violation of law and what legislation, if any, should be enacted regarding them. The Resolution also called for a report upon the extent to which the chain stores had tended to monopoly or concentration of control, the existence of unfair methods, and agreements in restraint of trade. The factual data were submitted in 33 separate reports, which were published as Senate documents under the general title, *Chain Stores*. These reports include detailed statistical analyses of nearly all phases of chain-store operations.

Subtitles of the 33 reports are as follows: *Cooperative Grocery Chains*, 1931; *Wholesale Business of Retail Chains*, 1931; *Sources of Chain-Store Merchandise*,

1931; *Scope of the Chain-Store Inquiry*, 1931; *Chain-Store Leaders an Loss Leaders*, 1932; *Cooperative Drug and Hardware Chains*, 1932 ; *Growth and Development of Chain Stores*, 1932 ; *Chain-Store Private Brands*, 1932; *Short Weighing and Over Weighing in Chain and Independent Grocery Stores*, 1932; *Sizes of Stores or Retail Chains*, 1932; *Quality of Canned Vegetables and Fruits (Under Brands of Manufacturers, Chains, and Other Distributors)*, 1933; *Gross Profit and Average Sale per Store of Retail Chains*, 1933; *Chain-Store Manufacturing*, 1933; *Sales, Costs, and Pro fits of Retail Chains*, 1933; *Prices and Margins of Chain and Independent Distributors, Washington, D. C.-Grocery*, 1933; *Prices and Margins of Chain and Independent Distributors, Memphis- Grocery*, 1933; *Prices and Margins of Chain and Independent Distributors, Detroit-Grocery*, 1933; *Prices and Margins of Chain and Independent Distributors, Cincinnati--Grocery*, 1933; *Prices and Margins or Chain and Independent Distributors, Cincinnati--Drug*, 1933; *Prices and Margins or Chain and Independent Distributors, Detroit-Drug*, 1933; *Prices and Margins of Chain and Independent Distributors, Memphis--Drug*, 1933; *Prices and Margins of Chain and Independent Distributors, Washington, D. C.-Drug*, 1933; *Chain-store Wages*, 1933; *Chain-Store Advertising*, 1933; *Chain-Store Price Policies*, 1933; *Special Discounts and Allowances to Chain and Independent Distributors-*

Tobacco Trade, 1933; Special Discounts and Allowances to Chain and Independent Distributors--Grocery Trade, 1933; Special Discounts and Allowances to Chain and Independent Distributors--Drug Trade, 1933; Invested Capital and Rates of Return of Retail Chains, 1933; Service Features in Chain Stores, 1933; The Chain Store in the Small Town, 1933 ; Miscellaneous Financial Results of Retail Chain, 1933 ; and State Distribution of Chain Stores, 1913-28, 1933.

The final report was transmitted on December 14, 1934, and printed a Senate Document 4, Seventy-fourth Congress, first session.

Coal, Anthracite.--This investigation was conducted pursuant to Senate Resolution 217, Sixty-fourth Congress, first session, June 22, 1916, and Senate Resolution 51, Sixty-fifth Congress, first session, April 30, 1917. A rapid advance in the prices of anthracite at the mines, compared with costs, and the overcharging of anthracite jobbers and dealers, were disclosed in the inquiry in response to the resolutions. Current reports of operators' and retailers' selling prices were obtained, and this was believed to have substantially benefited the consumer. Reports were transmitted to the Senate May 4, 1917, and June 20, 1917.

Coal, Anthracite.--This inquiry was made on motion of the Commission, and dealt with premium prices of anthracite co charged by certain mine operators and the premium prices and gross profits of wholesalers in the latter part of 1923 and early in 1924. The report discussed also the development of the anthracite combination and the results of the Government's efforts to dissolve it. The report dated July 6, 1925, entitled *Report of the Federal Trade Commission on Premium Prices of Anthracite* (97 pages), was transmitted to Congress.

Coal--Anthracite and Bituminous.--This inquiry was made pursuant to House Resolution 352, Sixty-fourth Congress, second session ; Senate Resolution 217, Sixty-fourth Congress, second session, and Senate Resolution 51, Sixty-fifth Congress, first session. The original problems of the investigation were altered by the entrance of the country into the World War and were treated accordingly. The report, entitled *Report of the Federal Trade Commission on Anthracite and Bituminous Coal*, consisting of a summary and a general report, was submitted to Congress June 19, 1917, and printed (420 pages) (out of print) as a Commission publication and as Senate Document No. 50, Sixty fifth Congress, first session. The summary was also submitted to Congress separately and printed as House Document 193, Sixty-fifth Congress, first session (29 pages) (out of print).

Coal, Bituminous.--An inquiry was made on motion of the Commission. The reports on investment and profit in soft-coal mining were prepared and transmitted to Congress in the belief that the information would be of timely value in consideration of pending legislation regarding the coal trade. The data cover the years 1916 to 1921, inclusive. reports were issued in two parts, dated May 31, 1922, and July 6, 1922, but printed in one volume, entitled *Investment and Profit in Soft Coal Mining. Part I. Summary and Conclusions; Part II, Explanations and Statistical Material Supporting Part I* (222 pages).

Coal, Bituminous.--This inquiry was made pursuant to House Resolution 352, Sixty-fourth Congress, first session, adopted Aug 15, 1916. The resolution aimed originally at an investigation of the alleged depressed condition of the industry, but shortly thereafter there was a marked advance in coal prices, and the Commission, in

a preliminary report, suggested various measures for insuring a more adequate supply at reasonable prices. This report, entitled *Preliminary Report by the Federal Trade Commission on the Production and Distribution of Bituminous Coal*, was printed as House Document No. 152, Sixty-fifth Congress, first session (8 pages) (out of print)

Coal Reports on Cost of Production.--This inquiry was made at the direction of the President. Before the passage of the Lever Act in August 1917, the Commission was called upon by the President to furnish information to be used by him in fixing coal prices under the said act. On the basis of the information furnished the prices of coal were fixed by Executive order. The work of the Commission in determining the cost of production of coal was continued by obtaining monthly reports. This information was compiled for use of the United States Fuel Administration in continuing the control of prices. Detailed cost records were collected from January 1917, through December 1918, for about 99 percent of the anthracite tonnage production and for

about 95 percent of the bituminous coal production. This information was summarized, after the war, in a series of reports for the principal coal producing States or regions, which were all date June 30, 1919, and entitled as follows: *Cost reports of the Federal Trade Commission--Coal. No. 1, Pennsylvania--Bituminous* (103 pages) (out of print). *No. 2 Pennsylvania--Anthracite* (145 pages) (out of print). *No. 3. Illinois--Bituminous* (127 pages). *No. 4. Alabama, Tennessee, and Kentucky--Bituminous* (210 pages). *No. 5. Ohio, Indiana, and Michigan Bituminous* (288 pages) . *No. 6 Maryland, West Virginia, and Virginia--Bituminous* (256 pages). *No. 7. Trans-Mississippi States--Bituminous* (59 pages).

Coal--Current Monthly Reports.--In December 1919, provided with a special appropriation by Congress, the Commission initiated a system of current monthly returns from the soft-coal industry somewhat similar to those required from coal-producing companies during the war. An injunction to prevent the Commission from calling for such reports (denied about 7 years later) led to their abandonment. Mimeographed reports of the results were published monthly regarding operations from January to June, inclusive, 1920, as follows: Bulletin No.1 (January 1920 costs) , April 20, 1920; Bulletin No.2 (February 1920 costs), May 24, 1920 Bulletin No.3 (March 1920 costs), June 25, 1920; Bulletin No. 4 (April 1920 costs), July 26, 1920; Bulletin No. 5 (May 1920 costs). August 25, 1920; Quarterly Report No. 1 (revised costs--First Quarter of 1920), August 25, 1920; Quarterly Report No. 2 (revised costs--Second Quarter of 1920), December 6, 1920.

Coal--Retail Situation.--An inquiry was made on motion of the' Commission into the retail coal situation in Washington, D. C., and a typewritten report was issued on August 11, 1917, entitled *Washington, D. C., Retail Coal Situation*, (5 pages).

Commercial Bribery--An inquiry made on motion of the Commission into the prevalence of bribery of employees of customers as a method of obtaining trade, was described in a special report to Congress, dated May 15, 1918. The report Contained recommendations for legislation striking at this practice. It was entitled *Special Report on Commercial Bribery*, and printed as House Document No. 1107, Sixty-fifth Congress, second session (3 pages) (out of print). On August 22, 1918, a letter from the Commission to Senator Duncan U. Fletcher, in the nature of a report, discussed this subject and was printed under the title, *Commercial Bribery*, as Senate Document (unnumbered), Sixty-fifth Congress, second session (36 pages) (out of print) . On March 18, 1920, a brief report was transmitted to the Senate by the Commission, on its own motion, entitled *Commercial Bribery*, which was printed as Senate Document No.258, Sixty-sixth Congress, second session (7 pages) (out of print).

Cooperation in Foreign Countries.--This investigation was initiated on motion of the Commission. The subsequent report on this subject was the result of inquiries made by the Commission regarding the cooperative movement in 15 European countries. It contained recommendations for further developments of cooperation in the United States. The report, dated December 2, 1924, was entitled *Cooperation in Foreign Countries* (202 pages) (out of print) , and was printed as a Senate document.

Cooperative Marketing.--This inquiry was made pursuant to Senate Resolution 34, Sixty-ninth Congress, special session, March 17, 1925. It covered the development of the cooperative. movement in the United States and illegal interferences with the formation and operation of cooperatives. The report included also a study of

comparative costs, prices, and marketing practices as between cooperative marketing organizations and other types of marketers and distributors handling farm products. The report, entitled *Cooperative Marketing*, was transmitted to the Senate April 30, 1928, and printed as Senate Document No. 95, Seventieth Congress, first session (721 pages)

Copper.--This inquiry was a part of the war-time work done at the direction of the President. One of the first products for which the Government established a definite maximum price during the World War was copper. The information upon which the price was fixed was primarily the Cost findings of the Federal Trade Commission, and a summary of this Cost information was published in a report entitled *Cost Reports of the Federal Trade Commission Copper* (26 pages), and issued under date of June 30, 1919.

Cost of Living.--At the outbreak of the World War the rapid rise of prices led the Commission to call a conference on April 30, 1917, to which official

delegates of the various States were invited. The proceedings, entitled *The High Cost of Living*, were subsequently printed (80 pages) (out of print).

Cotton Merchandising.--This inquiry was made pursuant to Senate Resolution 252, Sixty-eighth Congress, first session, June 7, 1924. Abuses in handling consigned cotton were discussed in the report on this inquiry, and a number of recommendations designed to correct or alleviate existing conditions made. The report, entitled *Cotton Merchandising Practices*, was transmitted to the Senate January 20, 1925, and printed as Senate Document No. 194, Sixty-eighth Congress, second session (88 pages).

Cottonseed Industry.--An inquiry was made pursuant to House Resolution 439, Sixty-ninth Congress, second session, March 2, 1927. Alleged fixing of prices paid for cottonseed led to this investigation. The Commission found considerable evidence of cooperation among the State associations, but the evidence as a whole did not indicate that prices had been fixed by those engaged in crushing or refining cottonseed in violation of the antitrust laws. One of the main causes of dissatisfaction to both the producer of cottonseed and those engaged in its purchase and manufacture was found to be the lack of a uniform system of grading. The report, entitled *Cottonseed Industry*, was transmitted to the House March 5, 1928, and printed as House Document No. 193, Seventieth Congress, first session (37 pages).

Cottonseed Industry.--An inquiry was made pursuant to Senate Resolution 136, Seventy-first Congress, first session, September 30, 1929, and Senate Resolution 147, Seventy-first Congress, first session, October 30, 1929. These resolutions instructed the Commission to investigate practices of corporations operating cottonseed-oil mills to determine the existence of unlawful combinations seeking to lower and fix prices of cottonseed, and seeking to sell cottonseed meal at fixed price under boycott threat. The Commission was also to determine whether such corporations were acquiring control of cotton gins for the purpose of destroying competitive markets as well as for depressing or controlling prices paid to seed producers. The final report (206 pages) was transmitted to the Senate on May 19, 1933. This report and twelve volumes covering hearings during the course of the investigation were printed as Senate Document No. 209, Seventy-first Congress, second session, under the general title, *Investigation of Cottonseed Industry*.

Cotton Trade.--An inquiry was made pursuant to Senate Resolution 262, Sixty-seventh Congress, second session, March 16, 1922. A preliminary report discussed especially the causes of the decline in cotton prices in 1922. A report, entitled *Cotton Trade. A Preliminary Report* (28 pages) (out of print) was transmitted February 26, 1923. (See next paragraph.)

Cotton Trade.--An inquiry was made pursuant to Senate Resolution 429, Sixty-seventh Congress, fourth session, January 31, 1923. The inquiry in response to this second resolution on the cotton trade was combined with the one mentioned above and resulted in a report which was sent to the Senate in April 1924. This report recommended that Congress enact legislation providing for some form of southern warehouse delivery on New York contracts, and as a part of such a delivery system the adoption of a future contract which would require that not more than three adjacent or contiguous grades should be delivered on any single contract. The Commission also recommended a revision of the system of making quotations and differences at the various spot markets and the abolition of deliveries on futures at New York. The

special warehouse committee of the New York Cotton Exchange on June 28, 1924, Adopted the recommendations of the Commission with reference to the southern delivery on New York contracts, including the contiguous grade contract. A report entitled *The Cotton Trade*, which was printed in two volumes, containing, respectively, the report amid the hearings, was transmitted to the Senate April 28, 1924, amid printed as Senate Document No. 100, Sixty-eighth Congress, first session (510 pages, out of print).

Du Pont Investments.--This inquiry was made on motion of the Commission, July 29, 1927. The reported acquisitions of E. I. du Pont de Nemours & Co., of the stock of the United States Steel Corporation, together with previously reported holdings in General Motors Corporation, caused an inquiry into these relations with a view to ascertaining the real facts and their probable economic consequences. The report, entitled *Report of the Federal Trade Commission on Du Pont Investments* was made in mimeographed form (43 pages), together with views of Commissioner Humphrey on the resolution and on the report (3 pages).

Electric and Gas Utilities.--See Electric Power, Interstate Power Transmission, and Utility Corporations.

Electric Power.--This inquiry was made pursuant to Senate Resolution 329, Sixty-eighth Congress, second session, February 9, 1925. Two reports on the control of the electric-power industry were made pursuant to this resolution. The first dealt with the organization, control, and ownership of commercial electric power companies, and showed, incidentally, the extreme degree to which pyramiding had been carried in superposing a series of holding companies over the underlying operating companies. The second report related to the supply of electrical equipment and competitive conditions existing in the industry. The dominating position of the General Electric Co. in the field of electric equipment was clearly brought out. These reports, entitled *Electric Power Industry. Control of Power Companies* (272 pages) (out of print), printed as Senate Document 213, Sixty-ninth Congress, second session, and *Supply of Electrical Equipment and Competitive Conditions* (282 pages), printed as Senate Document 46, Seventieth Congress, first session, were transmitted to the Senate February 21, 1927, and January 12, 1928, respectively. (See also Interstate Power Transmission and Utility Corporations.)

Farm Implements.--This inquiry was made pursuant to Senate Resolution 223, Sixty-fifth Congress, second session, May 1 1918. The high prices of farm implements and machinery led to this inquiry, which disclosed that there were numerous trade combinations to advance prices and that the consent decree for the dissolution of the International Harvester Co. was inadequate. The Commission recommended a revision of the decree and the Department of Justice proceeded against the company to that end. The report, entitled *Report of the Federal Trade Commission on the Causes of High Prices of Farm Implements* (713 pages, out of print), was transmitted to the Senate May 4, 1920. (See also Independent Harvester.)

Farm Implements and Machinery.--Under Public Resolution No.130, Seventy fourth Congress, Second Session, approved June 24, 1936, the Commission. undertook an investigation of corporations engaged in manufacturing, selling, or distributing agricultural implements and machinery. It was to be ascertained "whether any corporation engaged in the manufacture, sale, or distribution of agricultural implements and machinery * * * has been violating any of the antitrust acts of the United States, and the nature, extent, and effects of any such violation." The investigation is pending. (See p.8 of this volume.

Feeds.--This inquiry was made pursuant to Senate Resolution 140, Sixty-sixth Congress, first session, July 31, 1919. Its purpose was to discover whether there were any combinations or restraints of, trade in that business ; and, though it disclosed some association activities in restraint of trade, it found no important violation of the antitrust laws. Certain minor abuses in the trade were eliminated. The report, entitled *Report of the Federal Trade Commission on Commercial Feeds* (206 pages), was transmitted to the Senate March 29, 1921, and printed.

Fertilizer.--An inquiry was made pursuant to Senate Resolution 487, Sixty-second Congress third session, March 1, 1913. This investigation, which was begun by the Commissioner of Corporations, disclosed the extensive use of bogus independent fertilizer companies for purposes of competition, but through conferences with the principal manufacturers agreements were reached for the abolition of such unfair

competition. A report, entitled *Fertilizer Industry* (269 pages) was transmitted to the Senate August 19, 1916, and printed as Senate Document No.551, Sixty-fourth Congress, first session.

Fertilizer.--An inquiry made pursuant to Senate Resolution 807, Sixty-seventh Congress, second session, June 17, 1922, developed that active competition generally prevailed in the fertilizer industry in this country, though in certain foreign countries combinations controlled some of the most important raw materials. The Commission recommended constructive legislation to improve agricultural credits and more extended cooperative action in the purchase of fertilizer by farmers. The report, entitled *Fertilizer Industry* (87 pages), was transmitted to the Senate March 3, 1923, and printed as Senate Document No.347, Sixty-seventh Congress, fourth session.

Flags.--This inquiry, made pursuant to Senate Resolution 35, Sixty-fifth Congress, first session, adopted April 16, 1917, resulted from unprecedented increases in the prices of American flags due to the war-time demand. A report

entitled *Prices of American Flours*, and printed as Senate Document No.82, Sixty-fifth Congress, first session (6 pages) (out of print), was transmitted to the Senate July 23, 1917.

Flour Milling.--An inquiry was made pursuant to Senate Resolution 212, Sixty-seventh Congress, second session, January 18, 1922. A report on the inquiry into the flour-milling industry was sent to the Senate in May 1924. It showed the costs of production of wheat flour and the profits of the flour-milling companies in recent years. It also discussed the disadvantages of the miller and consumer arising from an excessive and confusing variety in the sizes of flour packages. A report, entitled *Wheat Flour Milling Industry* (130 pages) out of print was transmitted to the Senate May 16, 1924, and printed as Senate Document 130, Sixty-eighth Congress, first session. (See also Bakeries, Bread, and Food Investigation.)

Food Investigation.--This inquiry was made pursuant to the direction of the President, February 7, 1917. The general food investigation, undertaken with a special appropriation of Congress, resulted in two major series of reports, namely, meat packing and the grain trade, described elsewhere in this list. In addition separate inquiries were made into flour milling, canned vegetables and fruits, and canned salmon. (See Food Investigation Flour Milling, Grain Trade, Meat Packing, Food-Canning, Private Car Lines, and Wholesale Marketing of Food.)

Food Investigation-Flour Milling.--This inquiry was originally started pursuant to the order of the President of February 7, 1917, but was continued as a separate inquiry. A report entitled *Commercial Wheat Flour Milling* was issued on September 15, 1920 (118 pages). (See also Bakeries, Bread, and Flour Milling.)

Food Investigation--Flour Milling and Jobbing.--In connection with the food inquiry ordered by the President, the Commission Oil April 4, 1918, transmitted a report entitled *Food Investigation, Report of the Federal Trade Commission on Flour Milling and Jobbing* (27 pages) (out of print). (See also Bakeries, Bread, and Flour Milling.)

Food Investigation--Food Canning.--As a part of the general food investigation ordered by the President in 1917, the Commission made a study of canned foods, and published two reports, one May 15, 1918, entitled *Food investigation, Report of the Federal Trade Commission on Canned Foods: General Report, and Canned Vegetables and Fruits* (103 pages) (out of print) and another December 27, 1918, *Food Investigation, Report of the Federal Trade Commission on Canned Foods: Canned Salmon* (83 pages). Also, the Commission, in connection with its general war-time cost finding activity, obtained a large amount of cost data for the use of the War and Navy Departments, including data on canned foods. A volume was published November 21, 1921, in accordance with section 6 (f) of the Federal Trade Commission Act, and entitled *Report of the Federal Trade Commission on Canned Foods, 1918: Corn, Peas, String Beans, Tomatoes, and Salmon* (83 pages).

Food Investigation--Grain Elevators.--In connection with the inquiry into the grain trade ordered by the President, as elsewhere described, the Commission, in a letter dated June 13, 1921, transmitted to the Senate, on its own motion, in accordance with section 6 of the Federal Trade Commission Act, its report, *Profits of Country and Terminal Grain Elevators, a Preliminary Report*. This was printed as Senate Document No.40, Sixty-seventh Congress, first session (12 pages) (out of print). (See

also Grain Exporters and Grain-Wheat Prices.)

Food Investigation-Grain Trade.--Made pursuant to the direction of the President, February 7, 1917, this investigation covered the grain trade generally from the country elevator to the central markets, and included an extensive statistical analysis of the trading in cash, grain, and future contracts used on the records of commission men, brokers, etc. The Commission recommended that the quotations of the various grain exchanges should be made up and published on a more uniform basis and that railroads should be required to operate public elevators for the convenience of their shippers or that there should be governmental operation of storage elevators to permit small dealers to compete more nearly on an equality with the large elevator merchandisers. *The Report of the Federal Trade Commission on the Grain Trade* was printed in seven volumes, as follows *I. Country Grain Marketing* (350 pages) (out of print), September 15, 1920; *II. Terminal Grain Markets and Exchanges* (333 pages) (out of print), September 15, 1920; *III. Terminal Grain Marketing*

(332 pages) (out of print), December 21, 1921; *IV. Middlemen's Profits and Margins* (215 pages), September 26, 1923; *V. Future Trading Operations in Grain* (347 pages) (out of print), September 15, 1920; *VI. Prices of Grain and Grain Futures* (374 pages), September 10, 1924; *VII. Effects of Future Trading* (419 pages), June 25, 1926. (See also Grain Exporters and Grain-Wheat Prices.)

Food Investigation--Meat Packing.--As a part of the food inquiry ordered by the President, February 7, 1917, a comprehensive inquiry was made into the meat-packing industry. Evidence was obtained of a combination among meat packers and of various unfair methods of competition. It also was developed that they were rapidly extending their operations into various unrelated lines of food products such as fruits, dairy products, etc. As a result of the inquiry, the Commission recommended divorcing the meat packers from the control of the stockyards, a recommendation subsequently adopted by Congress in enacting the Packers and Stockyards Act, and also recommended restricting their operations in the unrelated lines, which was included in the provisions of a consent decree enjoining them from engaging in such merchandising. (See Packer Consent Decree below.) Six reports were issued as a result of this inquiry, the sixth having been prepared by the Department of Agriculture which cooperated with the Commission in making a study of the costs of raising and marketing cattle for slaughter. These six reports submitted to the President were; *Food Investigation. Report of the Federal Trade Commission on the Meat-Packing Industry. Summary and Part I (Extent and Growth of Power of the Five Packers in Meat and Other Industries)*, submitted June 24, 1919 (574 pages, out of print); *Part II. Evidence of Combination Among Packers*, submitted November 25, 1918 (290 pages); *Part III. Methods of the Five Packers in Controlling the Meat Packing Industry*, submitted June 28, 1919 (325 pages, out of print). *Part IV. The Five Large Packers in Produce and Grocery Foods*, submitted June 30, 1919 (390 pages, Out of print); *Part V. Profits of the Packers*, submitted June 28, 1919 (110 pages); and *Part VI. Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Live Stock*, submitted June 30, 1919 (183 pages). The summary was also printed separately by the Commission and as House Document 1297, Sixty-fifth Congress, second session, with a letter of transmittal of the President, dated September 24, 1918. (See also Meat Packing Profit Limitations and Packer Consent Decree.)

Food Investigation--Wholesale Marketing.--Undertaken as a part of the food inquiry, ordered by the President, February 7, 1917, this inquiry consisted of an examination of the methods of marketing, including especially the facilities necessary therefor and the private control or public regulation thereof. The printed report, *Food Investigation, Report of the Federal Trade Commission on the Wholesale Marketing of Food* (268 pages, out of print), was dated June 30, 1919.

Food Investigation--Private Car Lines.--This inquiry also was undertaken as a part of the food investigation ordered by the President, February 7, 1917. It comprised chiefly an examination of livestock car lines and refrigerator car lines, both for meats and fruits and vegetables, including a study of the effect of the ownership of such facilities on competition. Certain remedial measures were recommended. The report entitled *Food Investigation. Report of the Federal Trade Commission on Private Car Lines* (271 pages) was dated June 27, 1919, and printed.

Foreign Trade--Antidumping Legislation.--The inquiry was begun in the spring

of 1933, on motion of the Commission, when amendments to the anti-dumping laws of this country were under consideration by Congress. Authority for this study is found in sections 5 and 6 (h) of the Commission's organic law. The several recognized types of dumping--(1) real or ordinary dumping, (2) bounty dumping, (3) freight dumping, (4) dumping of materials, (5) consignment dumping, (6) exchange dumping, and (7) social dumping, were studied, as well as certain general provisions which may be used to prevent the dumping of goods from foreign countries. International action in suppression of dumping was briefly mentioned, and the legislation of each country was studied separately. A report entitled *Antidumping Legislation and other Import Regulations in the United States and Foreign Countries*, was ordered printed on January 11, 1934, as Senate Document No. 112, Seventy-third Congress, second session (100 pages).

Foreign Trade--Cooperation in American Export Trade.--This inquiry was made on motion of the Commission. An extensive investigation was under-taken of competitive conditions affecting Americans in international trade. The report disclosed the marked advantages of various other nations in foreign trade by reason of their superior facilities and more effective organizations. The Webb-Pomerene Act authorizing the association of manufacturers for export trade was enacted as a direct result of the recommendations embodied in the report. The report was issued as of June 30, 1916, under the general title *Cooperation in American Export Trade*, in two volumes: *Part I. Summary and Report* (387 pages), *Part II. Exhibits* (597 pages)--both out of print.

Foreign Trade--Cotton Growing Corporation.--This inquiry was made pursuant to Senate Resolution 317, Sixty-eighth Congress, second session, January 27, 1925, and concerned the development, methods, and activities of the Empire Cotton Growing Corporation, a British company. The report discussed world cotton production and consumption and concluded that there was then little danger of serious competition to the American cotton grower and that it would be many years before there would be a possibility that the United States would lose its position as the largest producer of raw cotton. The report, entitled *Empire Cotton Growing Corporation* (30 pages) (out of print) was transmitted to the Senate February 28, 1925, and printed as Senate Document No.226, Sixty-eighth Congress, second session.

Foreign Trade--Foreign Combinations of American Firms and Dumping.--This inquiry was made at the written request of 15 Senators, dated March 24, 1925. A report describing the laws respecting these practices and the conditions disclosed by the inquiry was issued in mimeographed form without formal title under date of May 27, 1926 (81 pages) (supply exhausted).

Gasoline.--Pursuant to the direction of the President, February 7, 1924, the Commission made an investigation of the sharp advance in gasoline prices, reporting in the form of a *Letter of Submittal and Summary of Report on Gasoline Prices in 1924*, dated June 4, 1924 (typewritten or mimeographed copy, 24 pages). It was referred by the President to the Attorney General and reprinted in the Congressional Record of February 28, 1925, beginning on page 51158. (See also Petroleum Investigation.)

Gasoline.--Pursuant to Senate Resolution 457, Sixty-sixth Congress, second session, adopted September 28, 1914, the Commission investigated gasoline prices for the year 1915 and published its *Report on the Price of Gasoline in 1915* (224 pages) (out of print) as of April 11, 1917, in which were discussed the high prices of petroleum products and how the various Standard Oil *companies* had continued to maintain a division of marketing territory among themselves. The Commission suggested several plans for restoring effective competition in the oil industry. A preliminary report was issued April 10, 1916, entitled *Investigation of the Price of Gasoline* (15 pages) (out of print), and printed as Senate Document No.403, Sixty-fourth Congress, first session.

Gasoline Importation.--This inquiry, made pursuant to Senate Resolution 274, Seventy-second Congress, first session, July 116, 1932, had its inception in complaints filed against four major oil companies operating in Detroit, alleging price discrimination due to zoning divisions in which different retail prices prevailed. The Commission transmitted its report to the Senate February 27, 1933, in the form of a letter entitled *Importation of Foreign Gasoline at Detroit, Mich.* (3 pages), printed as

Senate Document No.206, Seventy-second Congress, second session.

Gasoline Prices.--This inquiry was made pursuant to Senate Resolution 166, Seventy-third Congress, second session, February 2, 1934. The Commission investigated the causes of increased gasoline prices during the 6-month period preceding the resolution's adoption and the effect of such increases on gasoline consumers. The report revealed an average price increase of 2 cents about the time of the effective date, September 2, 1933, of the petroleum code. Following subsequent declines the average net increase was 1.04 cents. The report submitted May 10, 1934, entitled *Gasoline Prices*, was printed as Senate Document No.178, Seventy-third Congress, second session (22 pages).

Grain Exporters.--The low prices of export wheat gave rise to this inquiry, which was made pursuant to Senate Resolution 133, Sixty-seventh Congress, second session, December 22, 1921. The study developed facts regarding extensive and harmful speculative manipulations of prices on the grain exchanges and conspiracies among country grain buyers to agree on maximum prices for grain purchased. Legislation for a stricter supervision of grain

exchanges was recommended, together with certain changes in their rules. The commission also recommended governmental action looking to additional storage facilities for grain uncontrolled by grain dealers. Reports entitled *Report of the Federal Trade Commission on Methods and Operations of Grain Exporters, Vol. I. Interrelations and Profits* (123 pages), and *Vol. II Speculation, Competition, and Prices* (264 pages), were transmitted to the Senate May 16, 1922, and June 18, 1923, respectively. (See Food Investigation: Grain Elevators and Grain Trade.)

Grain--Wheat Prices.--The extraordinary decline of wheat prices in the summer and autumn of 1920 led to a direction of the President (as of October 12, 1920) to inquire into the reasons. These were found chiefly in abnormal market conditions, including certain arbitrary methods pursued by the grain-purchasing departments of foreign governments. The resulting report, entitled *Report of the Federal Trade Commission on Wheat Prices for the 1920 Crop* (91 pages), was transmitted to the President, December 13, 1920. (See Food Investigation: Grain Elevators and Grain Trade.)

Guarantee Against Price Decline.--The Commission, in 1919, made an inquiry into the practice of guarantee against price decline through a circular letter calling for information and opinions. The report, entitled *Digest of Replies * * * Relative to the Practice of Giving Guarantee Against Price Decline*, was published May 27, 1920 (66 pages).

House Furnishings.--Pursuant to Senate Resolution 127, Sixty-seventh Congress, second session, January 4, 1922, the Commission investigated the alleged high prices for house furnishing goods which had prevailed since 1920, as compared to the price declines in other lines. Three reports were issued showing that in respect to several kinds of household furnishings there had been conspiracies to inflate the prices of such goods. These reports, entitled *Report of the Federal Trade Commission on House Furnishing Industries, Vol. I. Household Furniture* (484 pages), *Vol. II. Household Stoves* (187 pages) and *Vol. III. Kitchen Furnishings and Domestic Appliances* (347 pages), were transmitted to the Senate January 17, 1923, October 1, 1923, and October 6, 1924, respectively.

Independent Harvester Co.--This inquiry was made pursuant to Senate Resolution 212, Sixty-fifth Congress, second session, March 11, 1918, calling for an investigation of the organization and methods of operation of the company which had been formed several years before to compete with the "Harvester trust." The company passed into receivership and the report disclosed that mismanagement and insufficient capital brought about its failure. The report, entitled *Federal Trade Commission Report to the Senate on the Independent Harvester Co.* (typewritten or mimeographed, 5 pages), was transmitted to the Senate May 15, 1918. (See also Farm Implements.)

Interstate Power Transmission.--This inquiry was made pursuant to Senate Resolution 151, Seventy-first Congress, first session, November 8, 1929, providing for ascertainment of the quantity of electric energy used for development of power or light, or both, generated in any State and transmitted across State lines, or between points within the same State but through any place outside thereof. The report, entitled *Interstate Movement of Electric Energy*, was printed as Senate Document No. 238, Seventy-first Congress, third session (134 pages), and transmitted to the Senate December 20, 1930. Interim reports had been issued as of December 9, 1929, March 10, June 11, and September 19, 1930. (See also Electric Power and Utility

Corporations.)

Leather and Shoes.--This inquiry was made on motion of the Commission, on account of general complaint regarding the high prices of shoes, and dealt chiefly with the costs and prices of leather and Shoes. A report entitled *Report on Leather and Shoe Industries* (180 pages), was published August 21, 1919. Previously, as of January 23, 1918, the Commission had issued *Hide and Leather Situation. A Preliminary Report to the "Report on Leather and Shoe Industries."*

Leather and Shoes.--under this inquiry, made pursuant to House Resolution 217, Sixty-sixth Congress, first session, a further study of leather and shoe costs and prices was conducted. The report, entitled *Report of the Federal Trade Commission on Shoe and Leather Costs and Prices* (212 pages), and a summary, were transmitted to the House June 10, 1921.

Lumber--Costs.--The war-time examination of lumber costs authorized by the President, July 25, 1917, resulted in an accumulation of information which

led the Commission to compile certain reports among which was one entitled *Report of the Federal Trade Commission on War-Time Costs and Profits of Southern Pine Lumber Companies*, transmitted to Congress, May 1, 1922 (94 D)ages) (out of print).

Lumber Trade Associations.--Pursuant to the request of the Attorney General, September 4, 1919, an extensive survey was made of lumber manufacturers' associations throughout the United States. The information obtained was presented in a series of published reports revealing the activities and attitude of lumber manufacturers toward legislation, amendments to the revenue laws, elimination of competition of competitive woods, control of prices and production, restriction of reforestation, and other matters. In consequence of the Commission's findings and recommendations, the Department of Justice initiated proceedings against certain of these associations for violations of the antitrust laws. A report was issued entitled *Report of the Federal Trade Commission on Lumber Manufacturers' Trade Associations, Incorporating Reports of January 10, 1921* (Preliminary Survey of Lumber Manufacturers' National and Regional Trade Associations) ; *February 18, 1921* (Southern Pine Association of New Orleans, La.) ; *June 9, 1921* (Douglas Fir Lumber Manufacturers' and Loggers' Associations) ; *February 15, 1922* (Western Pine Manufacturers' Association of Portland, Oreg.) (150 pages) (out of print). On May 7, 1923, a further report was made, entitled *Report of the Federal Trade Commission on Northern Hemlock and Hardwood Manufacturers' Association* (52 pages). Further information on these associations was developed in connection with the inquiry into open price associations. (See Open Price Associations.) On January 24, 1923, a report was made on three additional associations, entitled *Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountains and Mississippi Valley Territory* (22 pages). The three associations were: Western Red Cedar Association, Lifetime Post Association, and Western Red Cedar Men's Information Bureau.

Lumber Trade Associations.--An investigation of the activities of five large lumber trade associations bringing down to date the study made at the request of the Attorney General in 1919-20, was conducted on motion of the Commission in conjunction with the inquiry into open-price associations. Transmitted February 13, 1929. (See Open-price Associations.)

Meat--Packing Profit Limitations.--This inquiry was made pursuant to Senate Resolution 177, Sixty-sixth Congress, first session, September 3, 1919, and had to do with the system of war-time control established by the United States Food Administration. Certain changes were recommended by the Commission, including more complete control of the business and lower maximum profits. The report, entitled *Maximum Profit Limitation on Meat-Packing Industry* (179 pages) was transmitted to the Senate August 24, 1919, and printed as Senate Document No. 110, Sixty-sixth Congress, first session. (See also Food Investigation: Meat Packing.)

Milk--Canned.--An inquiry was made into the milk industry pursuant to Senate Resolution 431, Sixty-fifth Congress, third session, January 31, 1919. The investigation of the fairness of milk prices to producers and of canned milk prices to consumers, and whether they were affected by fraudulent or discriminatory practices, resulted in a report showing marked concentration of control and of questionable practices in the buying and handling of cream by butter manufacturers, many of which

have since been recognized as unfair by the trade itself. The report, entitled *Report of the Federal Trade Commission on Milk and Milk Products, 1914-1918* (234 pages), was transmitted to the Senate June 6, 1921, with a summary.

Milk Investigation.--This inquiry was made pursuant to House Concurrent Resolution 32, Seventy-third Congress, second session, February 5, 1934, concerning questionable trade practices in the milk industry *and* alleged monopolistic tendencies in the control of milk supply. The titles of five reports issued *are* as follows: *Report of the Federal Trade Commission on the Sale and Distribution of Milk a. and Milk Products, Connecticut and Philadelphia Milk sheds*, dated April 5, 1935, and printed as House Document 152, Seventy-fourth Congress, first session (105 pages); *Connecticut and Philadelphia Milksheds*, dated December 31, 1935, and printed as House Document 387, Seventy-fourth Congress, second session (125 pages); *Chicago Sales Area*, dated April 15, 1936, and printed as House Document 451, Seventy-fourth Congress, second session (103 pages) ; *Boston, Baltimore, Cincinnati and St. Louis*, dated June

4, 1936, and printed as House Document 501, Seventy-fourth Congress, second session (243 pages) ; and *Twin Cities Sales Area*, dated June 15, 1936, and printed as House Document 506, Seventy-fourth Congress, second session, (90 pages). The investigation is pending. (See p.21 of this volume.)

National Wealth and Income.--This inquiry was made pursuant to Senate Resolution 451, Sixty- seventh Congress, fourth session, February 28, 1923, calling for a comprehensive inquiry into national wealth and income and specially indicating for investigation the problem of tax exemption and the increase in Federal and State taxes (for reference to which see Taxation and Tax Exempt Income). In the report devoted to national wealth and income, the national wealth was estimated to be \$353,000,000,000 in 1922 and the national income to be \$70,000,000,000 in 1923. The nature of the wealth and income and its distribution among various classes were also given. The report on *National Wealth and Income* was transmitted to the Senate May 25, 1926, and printed as Senate Document No.126, Sixty-ninth Congress, first session (381 pages)

Open Price Associations.--This inquiry was made pursuant to Senate Resolution 28, Sixty-ninth Congress, special session, March 17, 1925, calling for an investigation to ascertain the number and names of so-called open-price associations, their importance in the industry, and the nature of their activities, with particular regard to the extent to which uniform prices were maintained among members to wholesalers or retailers. A report, entitled *Open Price Trade Associations*, was transmitted to the Senate February 13, 1929, and printed as Senate Document 226, Seventieth Congress, second session (516 pages). (See also Lumber Trade Associations.)

Packer Consent Decree.--Pursuant to Senate Resolution 278, Sixty-eighth Congress, second session, December 8, 1924, a report was made reviewing the legal history of the consent decree and the efforts made to modify or vacate it. A summary was given of the divergent economic interests involved in the question of packer participation in unrelated lines. The report, entitled *Packer Consent Decree*, recommended the enforcement of the decree against the Big Five packing companies. It was transmitted to the Senate February 20, 1925, and printed as Senate Document 219, Sixty-eighth Congress, second session (44 pages, out of print). (See also Food Investigation-Meat Packing and Meat-Packing Profit Limitations.)

Paper--Book.--This inquiry, made pursuant to Senate Resolution 269, Sixty-fourth Congress, first session, September 7, 1916, was begun that year, shortly following the newsprint inquiry. It had a similar origin and it disclosed similar restraints of trade, resulting in proceedings by the Commission against the manufacturers involved therein to prevent enhancement of prices. The Commission also recommended legislative action to repress restraints of trade by certain associations. Reports were transmitted to the Senate June 13, 1917, and August 21, 1917, entitled *Book Paper Industry. A Preliminary Report* (11 pages), Senate Document 45, Sixty-fifth Congress, first session (out of print), and *Book Paper Industry. A Final Report*, respectively (125 pages), Senate Document 79, Sixty-fifth Congress, first session.

Paper--Newsprint.--This inquiry, made pursuant to Senate Resolution 177, Sixty-fourth Congress, first session, April 24, 1916, resulted from a sharp advance in prices of newsprint. The reports of the Commission showed that these prices were very profitable, and that they had been partly the result of certain newsprint association activities which were in restraint of trade. Through the aid of the Commission,

distribution of a considerable quantity of paper to needy publishers was obtained at comparatively reasonable prices. The Department of Justice instituted proceedings in consequence of which the association was abolished and certain newsprint manufacturers indicted. A letter to the Senate from the Commission entitled *Newsprint Paper Industry*, transmitted Mardi 3, 1917, was printed as Senate Document No. 3, Sixty-fifth Congress, special session. The report was transmitted to the Senate June 13, 1917, entitled *Report of the Federal Trade Commission on the Newsprint Paper Industry* (162 pages). Following this inquiry the Commission established a system of monthly reporting of current figures dealing with production, stocks, sales, and the like, which was continued for several years. On July 10, 1917, an additional brief report was submitted to the Senate pursuant to Senate Resolution No.95, Sixty-fifth Congress, first session, entitled *Newsprint Paper Investigation*, which was printed as Senate Document No. 61, Sixty-fifth Congress, first session (8 pages).

Paper--Newsprint.--An inquiry was made pursuant to Senate Resolution 337, Seventieth Congress, second session, February 27, 1929. The question was whether there existed an alleged monopoly among manufacturers and distributors of newsprint paper in the supplying of paper to publishers of small daily and weekly newspapers. A report, *Newsprint Paper industry*, was transmitted to the Senate July 3, 1930, and printed as Senate Document No.214, Seventy-first Congress, special session (116 pages).

Peanut Prices.--This inquiry was made pursuant to Senate Resolution 139, Seventy-first Congress, first session, October 22, 1929. The Commission sought data concerning an alleged combination of peanut crushers and mills for price-fixing purposes in violation of the antitrust laws, as well as information with respect to an alleged arbitrary decrease in pikes. The report, entitled *Prices and Competition Among Peanut Mills*, was transmitted to the Senate July 30, 1932, and printed as Senate Document 132, Seventy-second Congress, first session (78 pages).

Petroleum Decree Investigation.--Pursuant to duty imposed upon and the power granted to it under section 6 (c) of the Federal Trade Commission Act and at the request of the Attorney General, made April 16, 1936, the Commission is conducting an investigation for the purpose of determining the manner in which a consent decree entered in the case of the Government against certain Pacific coast oil companies has been observed. The decree in question was entered under date of September 15, 1930, perpetually enjoining and restraining some 19 companies and one individual operating primarily on the Pacific coast from *conspiring* to monopolize and restrain interstate trade and commerce in the manufacture, transportation or sale of gasoline in violation of the Sherman Antitrust Act. The investigation is pending. (See p. 39 of this volume.) (See also Gasoline Investigations.)

Petroleum--Foreign Ownership.--This inquiry was made pursuant to Senate Resolution 311, Sixty-Seventh Congress, second session, June 29, 1922. The acquisition of extensive oil interests in this country by the Dutch-Shell concern, and alleged discrimination practiced against Americans in foreign countries, caused this inquiry which developed the situation in a manner to promote greater reciprocity on the part of foreign governments. The report, entitled *Report of the Federal Trade Commission on Foreign Ownership in the Petroleum Industry* (152 pages), was transmitted to the Senate February 12, 1923.

Petroleum Industry.--This inquiry was made pursuant to Senate Resolution 31, Sixty-ninth Congress, first session, June 3, 1926. A comprehensive study covered all branches of the industry from the ownership of oil lands and the production of crude petroleum to the conversion of petroleum into finished products and their distribution to the consumer. The report described not only the influences affecting the movements of gasoline and other products, but also discussed the organization and control of the various important concerns in the industry. No evidence was found of any understanding, agreement, or manipulation among the large oil companies to raise or depress prices of refined products. A report, entitled *Petroleum Industry--Prices, Profits and Competition* (360 pages), was transmitted to the Senate December 12, 1927, and printed as Senate Document No. 61, Seventieth Congress, first session.

Petroleum, Pacific Coast.--The great increase in the prices of gasoline, fuel oil, and other petroleum products on the Pacific coast led to this inquiry, made pursuant to Senate Resolution 138, Sixty-sixth Congress, first session, July 31, 1919. It

disclosed that several of the companies were fixing prices. Reports entitled *Pacific Coast Petroleum Industry; Part I. Production Ownership, and Profits* (276 pages) and *Part II. Prices and Competitive Conditions* (262 pages), were transmitted to the Senate April 7, 1921, and November 26, 1921, respectively, with a summary.

Petroleum--Panhandle.--This inquiry into conditions in the Panhandle (Texas) oil fields was made on a motion of the Commission of October 6, 1926, and in response to requests of crude-petroleum producers. The reduction of prices late in 1926 as complained of was largely a result of difficulties of handling and expenses of marketing this oil because of peculiar physical properties, according to the report, which was entitled *Report of the Federal Trade Commission on Panhandle Crude Petroleum* (19 pages), issued as of February 3, 1928.

Petroleum--Pipe Lines.--This inquiry, made pursuant to Senate Resolution 109, Sixty-third Congress, first session, June 18, 1913, was begun by the Bureau

of Corporations, and showed the dominating importance of the pipe lines of the great midcontinent oil fields. It also pointed out that the pipe-line companies, which were controlled by a few large oil companies, not only charged excessively high rates for transporting petroleum, but also evaded their duties as common carriers by insisting on unreasonably large shipments, to the detriment of the numerous small producers. *Report on Pipe-Line Transportation of Petroleum* (467 pages, out of print), was transmitted to the Senate February 28, 1916.

Petroleum Prices--1920--Pursuant to House Resolution 501 Sixty-sixth Congress, second session, April 5, 1920, a short inquiry was made into the high prices of petroleum products. The report of the Commission pointed out that the Standard companies practically made the prices in their several marketing territories and avoided competition among themselves. Various constructive proposals to conserve the oil supply were made by the Commission. The report, entitled *Advance in the Prices of Petroleum Products* (57 pages), was transmitted to the House June 1, 1920, and printed as House Document No. 801, Sixty-sixth Congress, second session.

Petroleum-Wyoming.--This inquiry was made on motion of the Commission. Complaints of several important producing companies in the Salt Creek oil field led to the investigation. The report covered the production, pipe-line transportation, refining, and wholesale marketing of crude petroleum and petroleum products in the State of Wyoming. The report, entitled *Report of the Federal Trade Commission on the Petroleum Industry of Wyoming* (54 pages, out of print), was issued January 3, 1921.

Petroleum--Wyoming and Montana.--This inquiry, made on motion of the Commission, resulted in a special report directing the attention of Congress to conditions existing in the petroleum trade in Wyoming and Montana. Remedial legislation was recommended by the Commission. The report, entitled *Petroleum Trade in Wyoming and Montana* (4 pages), was dated July 13, 1922.

Power and Gas Utilities.--See Electric Power, Interstate Power Transmission, and Utility Corporations.

Price Bases--This inquiry was made on motion of the Commission of July 27, 1927, for the purpose of studying methods in use to competitive delivered prices on industrial products and for the purpose of determining what factual and potential influences such methods might have on competitive markets and price levels. The study also included factors which determined the methods used. This survey extended to more than 3,500 reporting manufacturers representing practically every industrial segment. Inquiry into conditions in the cement industry revealed that the basing-point system contributed to imperfect price competition and tended to establish an unhealthy uniformity of delivered prices from the competitive standpoint together with a lack of price flexibility over variable periods of the. Cross-haul or cross-freighting was found to be one of the cement industry's economic evils and to be generally admitted as such by the industry itself. The first report, *Report of the Federal Trade Commission on Price Bases Inquiry, Basing-point Formula and Cement Prices* (218 pages), was submitted to Congress on March 26, 1932. A mimeographed report, entitled, *Study of Zone-price Formula in Range Boiler Industry*, was issued March 30, 1936. (See Steel Code Inquiry, Steel Code as Amended, and Cement Industry.)

Price Deflation.--To an inquiry of the president of March 21, 1921, the Commission made immediate reply (undated) giving its views of the cases of the disproportional

decline of agricultural prices compared with consumers' prices. This was entitled *Letter of the Federal Trade Commission to the President of the United States* (8 pages). (See Agricultural Income.)

Profiteering--This report was made in response to Senate Resolution No. 225, Sixty-fifth Congress, adopted June 10, 1918, on the current conditions of profiteering as disclosed by various inquiries of the Commission, and transmitted to the Senate on June 29, 1918. It was printed under the title of *Profiteering* as Senate Document No.248, Sixty-fifth Congress, second session (20 pages).

Radio--This inquiry was made pursuant to House Resolution 548, Sixty-seventh Congress, fourth session, March 4, 1923. As a result of this investigation, it was found that a large number of patents were owned by and cross-licensed among a number of large companies. At the conclusion of the investigation, the Commission instituted proceedings against these companies

charging a monopoly of the radio field. A report entitled *Report of the Federal Trade Commission on the Radio Industry* (347 pages), was transmitted to the House, December 1, 1923.

Raisin Combination.--Allegations of a combination among raisin growers in California were referred to the Commission for examination by the Attorney General as of September 30, 1919, pursuant to the Federal Trade Commission Act. The Commission found that the enterprise was not only organized in restraint of trade but was being conducted in a manner that was threatening financial disaster to the growers. The Commission recommended changes to conform to the law. These were adopted by the raisin growers. A report in the form of a letter, entitled *California Associated Raisin Co.*, was made to the Attorney General, June 5, 1920 (28 pages, typewritten).

Resale Price Maintenance.--This report was made on motion of the Commission. The question whether a manufacturer of standard articles, identified by trade mark or trade practice, should be permitted to fix by contract the price at which the purchasers could resell them, led to this inquiry. The Commission recommended to Congress the enactment of legislation permitting resale-price maintenance under certain conditions. The report, dated December 2, 1918, was in the form of a letter to Congress (2 pages) (out of print.)

Resale Price Maintenance.--This was a similar report made on motion of the Commission in the form of a letter addressed to Congress, June 30, 1919. It was printed as a public document, Sixty-sixth Congress, first session, House Document 145 (3 pages) (out of print).

Resale Price Maintenance.--This inquiry was made on motion of the Commission of July 25, 1927. The study was conducted from the point of view of the economic advantages or disadvantages of resale price maintenance to the manufacturer, distributor, and consumer, the effects on costs, profits, and prices, and the purpose and results of price cutting. Part I of the report, *Resale Price Maintenance*, was transmitted to Congress January 30, 1929, and printed as House Document No. 546, Seventieth Congress, second session (141 pages) (out of print) ; Part II (final) (215 pages) was transmitted on June 22, 1931.

Salaries Inquiry.--This inquiry was made pursuant to Senate Resolution 75, Seventy-third Congress, first session, May 5, 1933, which directed that an inquiry be made by the Commission concerning the salaries of executive officers and directors of corporations engaged in interstate commerce (other than public utilities corporations) having capital and assets of more than a million dollars, whose securities were listed on the New York Stock Exchange or the New York Curb Exchange. The investigation was confined to the 5 year period, 1928-32, and was necessarily limited to a comparatively small proportion of corporations coming within the Commission's jurisdiction. The summary of the report, entitled *Report of the Federal Trade Commission on Compensation of Officers and Directors of Certain Corporations*, was transmitted in type-written form (15 pages), on February 26, 1934, together with 14 volumes of typewritten statements showing the salaries and other compensation with respect to 877 corporations, not counting their subsidiaries for which data were also included. These reports were not printed.

Sisal Hemp.--This inquiry was made pursuant to Senate Resolution 170, Sixty-fourth Congress, first session, April 17, 1916, calling on the Commission to assist the

Senate Committee on Agriculture and Forestry by advising how certain quantities of hemp, promised by the Mexican Sisal Trust, might be fairly distributed among American manufacturers of binder twine. The Commission made an inquiry and submitted a plan of distribution, which was followed. The report entitled *Mexican Sisal Hemp*, was transmitted to the Senate May 9, 1916, and printed as a public document, Sixty-fourth Congress, first session, Senate Document No.440 (8 pages) (out of print).

Southern Livestock Prices.--This inquiry was made pursuant to Senate Resolution 133, Sixty-sixth Congress, first session, July 25, 1919. The low prices of southern livestock, which gave rise to the belief that discrimination was being practiced, were investigated, but the alleged discrimination did not appear to exist. The report, entitled *Southern Livestock Prices*, was transmitted to the Senate February 2, 1920, and printed as Senate Document No.209, Sixty-sixth Congress, second session (11 pages).

Steel Code Inquiry.--This inquiry was made pursuant to Senate Resolution 166, Seventy-third Congress, second session, February 2, 1934. This resolution directed the Commission to investigate and report upon the practice of the steel

industry with particular reference to price fixing, the increased prices of steel products, and "other such matters as would give a full presentation of the facts touching the industry since it went under the National Recovery Administration code." The inquiry centered largely upon alleged collusive activities of steel producers in fixing identical delivered prices and eliminating competition under the code, the effects of the multiple basing-point system incorporated in the code, composition of the delivered selling prices which the code imposed, the influence of various code restrictions on competition, and a general analysis of price increases attributable to the organized efforts of the industry. The Commission found that adherence to the code required violation by certain producers of a cease and desist order issued some years before by the Commission against the basing-point system in what is known as the "Pittsburgh Plus" case. The report, entitled "*Practices of the Steel Industry Under the Code*", was transmitted to the Senate on March 19, 1934, and printed as Senate Document No. 159, Seventy-third Congress, second session (79 pages). Certain modifications of the steel code were approved by the President on May 30, 1934.

Steel Code as Amended.--This inquiry was made pursuant to Executive order of May 30, 1934. This order directed the Commission and the National Recovery Administration to undertake a joint study of the effect of the multiple basing-point system under the amended steel code, particularly within the realm of the system's influence on prices to consumers, effects of the system in either permitting or encouraging price fixing, or "providing unfair competitive advantages for producers, or disadvantages for consumers not based on natural causes." The order called for "recommendations for revisions of the code." It also directed the inquiry to be concluded within 6 months. The *Report of the Federal Trade Commission to the President in Response to Executive Order of May 30, 1934, with Respect to the Basing Point System in the Steel Industry* (125 pages), was transmitted to the President on November 30, 1934, and printed. It recommended code revisions eliminating provisions giving sanction to the multiple basing-point system, provisions in aid of price fixing and those relating to the regulation of production and new capacity. It found that the multiple basing-point system not only permitted and encouraged price fixing but that it was price fixing. It found also that the system did provide unfair competitive advantages for producers and disadvantages for consumers not based on natural causes.

On March 15, 1935, there was issued in mimeographed form the *Summary of Report of the Federal Trade Commission to the President * * * in re: Iron and Steel Industry's Basing Point System* (9 pages). On the same day the National Recovery Administration issued its *Summary of the Report of the National Industrial Recovery Board to the President on the Operation of the Basing Point System in the Iron and Steel Industry* (7 pages, mimeographed).

Steel Companies, Proposed Merger.--Pursuant to Senate Resolution 286, Sixty-seventh Congress, second session, the Commission was requested to inquire into a proposed merger of steel companies, namely, of the Bethlehem Steel Corporation and the Lackawanna Steel Co., and of the Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co. Two reports were made, June 5, 1922, and September 7, 1922, both entitled *Merger of Steel and Iron Companies*, regarding the purpose and probable effects of the proposed merger, which were printed as Senate Document No. 208, Sixty-seventh Congress, second session, part 1, and as Senate

Document No.208, Sixty-seventh Congress, second session, part 2 (9 pages and 2 pages, respectively) (out of print).

Steel Industry--Costs and Profits.--Inquiry into the costs and profits of the steel industry during the war was made pursuant to the order of the President of July 25, 1917, and after its conclusion certain data in regard thereto were compiled by the Commission in a report, entitled *Report of the Federal Trade Commission on War-Time Profits and Costs of the Steel Industry* (138 pages), which was sent to Congress February 18, 1925.

Steel Sheet Piling--(Collusive Bidding).--In response to a direction from the President of November 20, 1935, to investigate the prices of steel sheet piling on Government contracts, the Commission, as of June 10, 1936, made a report demonstrating the existence of collusive bidding because of a continued adherence to the basing point system and other provisions of the code. The report was entitled *Federal Trade Commission Report to the President on Steel Sheet Piling* (42 pages). (See p. 30 of this volume.)

Stock Dividends.--This inquiry was made pursuant to Senate Resolution 304, Sixty-ninth Congress, second session, December 22, 1926. This resolution called for a list of the names and capitalizations of those corporations which had issued stock dividends, together with the amount of such stock dividends, since the decision of the Supreme Court, March 8, 1920, holding that stock dividends were not taxable. The same information for an equal period prior to that decision was also called for. The report, entitled *Stock Dividends*, contains a list of 10,245 such corporations and a brief discussion on the practice of declaring stock dividends, which it deemed to be of questionable advantage as a business policy. This report was transmitted to the Senate December 5, 1927, and printed as Senate Document No.26, Seventieth Congress, first session (273 pages).

Sugar.--This inquiry was made pursuant to House Resolution 150, Sixty-sixth Congress, first session, October 1, 1919. The extraordinary advance in the price of sugar in 1919 led to this inquiry. The price advance was from to be due chiefly to speculation and hoarding in sugar. Certain recommendations were made for legislative action to correct these abuses. The report, entitled *Report of the Federal Trade Commission on Sugar Supply and Prices* (205 pages), was transmitted to the House November 15, 1920.

Sugar-Beet.--This inquiry was initiated by the Commissioner of Corporations at the direction of the Secretary of Commerce *but* was completed by the Federal Trade Commission. It dealt with the cost of growing beets and the cost of beet-sugar manufacture. The report, entitled *Report on The Beet Sugar industry in. the United States* (164 pages), was published May 24, 1917. (Out of print.)

Taxation and Tax Exempt Income.--This inquiry was pursuant to Senate Resolution No.451, Sixty-seventh Congress, fourth session (chiefly directed to the study of National Wealth and Income), and a separate report on this part of the resolution, entitled *Taxation and Tax Ex Income*, was transmitted to the Senate on June 6, 1924, and printed as Senate Document No.148, Sixty-eighth Congress, first session (144 pages, out of print). (See National Wealth and Income.)

Textiles-Combined Cotton Yarns.--This inquiry was made pursuant to House Resolution 451, Sixty-sixth Congress, second session, April 5, 1920. The Commission was called upon to investigate the high prices of combed cotton yarn. The inquiry disclosed that there had been an unusual advance in price and that the profits in the industry had been extraordinarily large for several years, but by the end of 1920 the prices of combed yarns, like other cotton textile products, showed a very sharp decline. A report entitled *Report of the Federal Trade Commission on Combed Cotton Yarns* (94 pages), was transmitted to the House April 14, 1921.

Textile Industry.--This inquiry was directed by an Executive order of Sept. 26, 1934, instructing the Commission to inquire into the industry's labor costs profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. It also established The Textile Labor Relations Board and directed the Department of Labor to report on actual hours of employment in the industry, employees' earnings, and general working conditions. Conditions prevailing in the 20 months preceding the 1934 textile strike were first studied. These were divided into three 6-month periods and a 2 month period--January-June 1933, before N. R. A. codes became effective ; July-December 1938, covering their effective dates ; January-June 1934, while codes were functioning

; and July-August 1934, the 60-day period prior to the strike. Due to the desirability of an early report, essential information was obtained by means of a comprehensive schedule, subscribed to under oath and forwarded to approximately 2,600 textile manufacturing companies. Material for immediate comparable results was transmitted by 765 concerns, with an aggregate investment of slightly less than \$1,200,000,000. The investigation continued and, at the date of this report was to be concluded with reports for the 6-month period ending June 30, 1936. The following reports had been issued up to June 30, 1936: *Report of the Federal Trade Commission on Textile Industries, Part I. Investment and Profit*, December 31, 1934 (26 pages) *Part II. The Cotton and Textile Industry*, March 8, 1935 (34 pages) ; *Part III. The Woolen and Worsted Textile Industry*, January 1935 (21 pages) ; *Part IV. The Silk and Rayon Textile Industry*, February 1935 (37 pages); *Part V. Thread, Cordage and Twine Industries*, February 18, 1935 (14 pages); and *Part VI. Tabulations Showing*

Financial and Operating Results for Textile Companies According to Rates of Return on Investment, Rates of Net Profit or Loss on Sales, and Amount of Investment (Six-Month Periods from January 1, 1933, to June 30, 1934, and for July-August 1934) (24 tables), June 20, 1935.

In continuation, the Commission began another series of reports, entitled *Report of the Federal Trade Commission on the Textile Industries in 1933 and 1934*, of which one volume had been published before the end of the fiscal year 1935-36, entitled *Part I. The Cotton Textile Industry*, August 1, 1935 (34 pages). Other reports in this series, available in mimeographed form, include: *Part II. The Woolen and Worsted Textile Industry*, September 25, 1935 (31 pages); *Part III. The Silk and Rayon Textile Industry*, November 29, 1935 (45 pages); *Part IV. Thread, Cordage, and Twine Industries*, December 5, 1935 (21 pages); *Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934* (46 tables); *Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934* (18 tables); *Textile Industries in the First Half of 1935; Part I. The Cotton Textile Industry, Including Thread, Cordage, and Twine*, May 22, 1936; *Part II. The Woolen and Worsted Textile Industry*, July 20, 1936; and *Part III. The Silk and Rayon Textile Industry*, August 22, 1936.

Textiles--Woolen Rag Trade.--This report was published on motion of the Commission, and contains certain information gathered during the war, at the request of the War Industries Board, for its use in regulating the prices of woolen rags used for making clothing. The report, entitled *Report on the Woolen Rag Trade* (90 pages), was published as of June 30, 1919.

Tobacco.--This inquiry was made pursuant to Senate Resolution 329, Sixty-eighth Congress, second session, February 9, 1925. The report on this investigation related to the activities of the American Tobacco Co. and the Imperial Tobacco Co. of Great Britain. The alleged illegal agreements, combinations, or conspiracies between these companies did not appear to exist. The report, entitled *The American Tobacco Co. and the Imperial Tobacco Co.*, was transmitted December 23, 1925, to the President, who sent it to the Senate. It was printed as Senate Document No. 84, Sixty-ninth Congress, first session (129 pages, out of print)

Tobacco Marketing--Leaf.--This inquiry, made on motion of the Commission in 1929, was instituted upon complaint of representative groups of North Carolina tobacco farmers charging the existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices. In 1929 the price to growers was approximately 25 percent below cost of production. The inquiry was broadened to include the entire flue-cured belt, extending from southern Virginia through north central Florida. The Commission found no evidence of price agreements. It recommended curtailing production, improved marketing processes, a standardized system of grading, and greater cooperation between manufacturers and growers. It also recommended enactment of legislation similar to the Cotton Standardization Act, which would make mandatory existing classification under the Tobacco Stocks and Standards Act. The report, entitled *Report on Marketing of Leaf Tobacco in the Flue-Cured District of the States of North Carolina and Georgia* (54 pages, typewritten or mimeographed), was released May 23, 1931.

Tobacco Prices.--This inquiry was made pursuant to House Resolution 533, Sixty-sixth Congress, second session, June 3, 1920. The unfavorable relationship between

the prices of leaf tobacco and the selling prices of tobacco products was reported to be due in part to the purchasing methods of the large tobacco companies. As a result of this inquiry, the Commission recommended that the decree dissolving the old Tobacco Trust should be amended and that proceedings be instituted in the matter of alleged violations of the existing decree. Better systems of grading tobacco were also recommended by the Commission. A report, entitled *Report of the Federal Trade Commission on the Tobacco Industry* (162 pages), was transmitted to the House, December 11, 1920.

Tobacco Prices.--This inquiry was made pursuant to Senate Resolution 129, Sixty-seventh Congress, first session, August 9, 1921. It was also directed to the low prices of leaf tobacco and the high prices of tobacco products. It alleged that in the sale of tobacco several of the largest companies were engaged in numerous conspiracies with their customers--the jobbers--to enhance the selling prices of tobacco. Proceedings were instituted by the Com-

mission. The report, entitled *Prices of Tobacco Products* (109 pages), was transmitted to the Senate, January 17, 1922.

Trade and Tariffs in South America.--This inquiry, directed by the President as of July 22, 1915, was an outgrowth of the First Pan American Financial Conference which met at Washington, May 24-29, 1915. The immediate purpose of the inquiry was to furnish the American branch of the International High Commission, appointed as a result of this financial conference, with information to assist in the deliberations of that Commission. Customs administration and related matters, including tariff policy, were discussed in the report, entitled *Report on Trade and Tariffs in Brazil, Uruguay, Argentina, Chile, Bolivia, and Peru* (246 pages, out of print). The report was transmitted to the President under date of June 30, 1916.

Utility Corporations.--This inquiry was made pursuant to Senate Resolution 83, Seventieth Congress, first session, adopted February 15, 1928, Senate Joint Resolution 115, Seventy-third Congress, second session, adopted June 1, 1934, and to section 6 of the Federal Trade Commission Act. The first resolution directed the Commission to investigate electric and gas utility holding companies, operating companies, and construction and other adulated companies; their financial structures; growth of their capital assets and liabilities, methods and costs of issuing and marketing the various types of stocks and other securities; capitalization in engineering and management and other types of supervisory and controlling contracts; methods of creation of capital surplus and the payment of dividends therefrom, etc. The resolution also directed the Commission to ascertain the facts with respect to propaganda hostile to public ownership of utilities, and to suggest legislation to correct abuses found to exist in the organization or operation of holding companies. The resolution required monthly reports. The first of these was dated March 15, 1928. The second resolution directed the Commission to conclude the investigation and submit its final report by the first Monday in January 1936. Included in these monthly interim reports are many hundreds of detailed reports by accountants, engineers, economists, and statisticians, based on examination of the corporation accounts and their other records and reports, together with their oral testimony and that of other witnesses, comprising a total of 94 volumes, which are printed under the general title, *Utility Corporations*, as Senate Document 92, Seventieth Congress, first session. Eighty-four volumes comprises testimony and exhibits. The final, summary, index, and appendix volumes are listed on p. 35 of this annual report. A list of the companies investigated and the volume numbers of the reports thereon are printed in the Commission's annual report for 1935, beginning at page 21. (See also Electric Power and Interstate Power Transmission.)

War-Time Cost Finding.--This series of cost inquiries was ordered by the President July 25, 1917. The numerous cost investigations made by the Federal Trade Commission during the World War into the coal, steel, lumber, petroleum, cotton-textile, locomotive, leather, canned foods, and copper industries, and scores of other important industries, on line basis of which prices were fixed by the Food Administration, the War Industries Board, and purchasing departments such as the Army, Navy, Shipping Board, and Railroad Administration, were all done under the President's special direction, and it has been estimated that they helped to save the country many billions of dollars by checking unjustifiable price advances. Lists of most of the reports prepared for this purpose (not printed or otherwise published) are given in the annual reports of the Commission for the years 1918 and 1919.

Subsequent to the war a number of reports dealing with costs and profits was published based on these wartime inquiries. Among these were the reports on steel, coal, copper, lumber, and canned foods.

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[Index does not include names or items in alphabetical lists or tables. For names of electric and gas utility companies concerning which hearings were held during fiscal year, see pages 36-37; of respondents in orders to cease and desist, see pages 57-60 ; of export trade associations, see pages 115-116; of foreign countries and various acts and references listed under “Trust Laws and Unfair Competition in Foreign Countries”, see pages 116-124 ; for appropriation items, see pages 127-131; and for “Investigations of the Commission, 1915-1936” and various references thereunder see pages 157-175]

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